



Court-Funded Facilities Request Policy

ADOPTED BY JUDICIAL COUNCIL ON:
AUGUST 26, 2016



JUDICIAL COUNCIL
OF CALIFORNIA

Purpose and Scope of the Policy

This Court-Funded Facilities Request (CFR) Policy presents the procedure and requirements to allow trial courts to make a court-funded facilities request to assist with the funding of certain facilities costs (i.e., facility modifications and lease-related costs) by allowing trial courts to contribute funds toward urgent facilities costs, not including capital outlay expenses, through allocation reductions from the Trial Court Trust Fund (TCTF).

For purposes of the CFR Policy, allowable facilities costs that a trial court can fund through a Court-Funded Facilities Request include (a) Facility Modifications as defined in the *Trial Court Facility Modifications Policy*, as adopted by the Judicial Council on July 27, 2012, including any subsequent revisions; (b) allowable court operations costs under rule 10.810 of the California Rules of Court; and (c) lease-related costs as stated herein.

At its meeting on August 23, 2013, the Judicial Council adopted a new CFR procedure as well as related delegations and reporting requirements. This July 2016 CFR Policy supersedes the previously approved 2013 CFR procedure.

Trial Court Funded Request Procedure

1. **Submittal of CFR Application.** A trial court may submit a CFR application as follows:
 - a. The trial court's presiding judge, court executive officer, or written designee may submit a CFR application to fund facilities costs using the CFR form that has been approved by the Trial Court Facility Modification Advisory Committee (TCFMAC). The CFR application must include a statement that the trial court has verified its ability to meet the financial commitments relating to the CFR.
 - b. The CFR application must be submitted to the CFR e-mail inbox (CFR@jud.ca.gov). The inbox is managed by the Judicial Council's Facilities Project Management unit (FPM). FPM will confirm receipt to the sender.
 - c. Trial courts shall submit CFR applications before the CFR submission deadline as stated in the time schedule for submitting CFR applications provided to the trial courts by Judicial Council staff each fiscal year.
 - d. The CFR application must be consistent with the following:
 - i. CFRs shall fund only the following trial court facility needs:
 - A. Lease-related costs (i.e., lease payments and operating costs, repairs, or modifications authorized by a lease); or
 - B. 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), to the extent that the trial court prefers to have Judicial Council staff handle the matter on its behalf; or

- C. 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 either improve a trial court facility's functionality or improve court operations.
- ii. If a CFR is for lease-related costs, the following conditions must be met:
 - A. The Judicial Council is either the tenant (or subtenant) under the lease or has accepted assignment of the lease;
 - B. The original term of the lease will not exceed five years; and
 - C. Any lease renewal (including renewals under an option contained in an existing lease contract) must be considered as a new CFR.
 - iii. Trial courts that wish to contribute funding in a fiscal year for multiple small projects that are non-lease items may expedite the approval process by submitting a single CFR, under the following requirements and procedures:
 - A. The CFR will propose a maximum fiscal year budget (i.e., the trial court's cumulative total financial contribution) for small projects for that fiscal year and subsequent fiscal years;
 - B. Following approval of that amount, the trial court will submit individual service work order requests, to be charged against its authorized maximum fiscal year budget as follows:
 - I. Individual service work orders may not exceed \$50,000;
 - II. Each service work order will identify the type of service requested and state whether the work is either allowable or not allowable under rule 10.810;
 - III. 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 either improve a trial court facility's functionality or improve court operations;
 - IV. Once a maximum fiscal year budget for small projects has been approved, FPM, in coordination with the trial court, may approve individual service work order requests; and
 - V. FPM staff will report at each meeting of the TCFMAC on disposition of all individual service work order requests received since the committee's preceding meeting; and
 - C. A trial court's cumulative amount of service work orders for any fiscal year may not exceed the maximum fiscal year budget established in the original CFR unless an Intra-branch Agreement (IBA) has been amended to authorize a new maximum fiscal year budget.

- iv. Reduction of allocation. Any trial court submitting a CFR application must agree that its Trial Court Trust Fund 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, because other court facilities funding sources are fully committed and therefore unavailable to replace a trial court contribution.

2. **Judicial Council Review of CFR Application.**

- a. *Director approval/disapproval.* Upon receipt of a trial court's CFR application, the Judicial Council's director of Real Estate and Facilities Management may approve or disapprove a CFR application applying the criteria herein while considering whether the proposed budget for the project is accurate. However, if the project results in an increase to ongoing operational costs to the Judicial Council beyond the initial outlay for the project (e.g., additional utility or maintenance costs), the director shall direct Judicial Council staff to forward the CFR application to the TCFMAC for approval or disapproval in lieu of the director's approval or disapproval. Once the director either (a) approves or disapproves a CFR application, or (b) determines that the project will result in an increase to ongoing operational costs to the Judicial Council beyond the initial outlay for the project (e.g., additional utility or maintenance costs), the Judicial Council staff will immediately notify the trial court of the director's decision and send a follow-up letter confirming the decision.

If the director has approved a CFR application, the CFR application is not required to go to the TCFMAC.

- b. *TCFMAC review.* If the director has concerns about whether the proposed CFR meets the criteria herein or whether the proposed budget for the project is accurate, the director may present those concerns to the TCFMAC, and the TCFMAC shall consider whether the CFR application should be approved.

If the director disapproves a CFR application, the applicable trial court shall have the right, but not the obligation, to appeal the director's decision to the TCFMAC. In the event that a CFR application is presented or appealed to the TCFMAC, the trial court may provide a statement and any documents in support of its CFR application.

In addition, the TCFMAC shall either approve or disapprove, in its discretion, any CFR application for which the project results in an increase to ongoing operational costs to the Judicial Council beyond the initial outlay for the project (e.g., additional utility or maintenance costs).

Once the TCFMAC either approves or disapproves a CFR application, the Judicial Council staff will immediately notify the trial court of TCFMAC's decision and send a follow-up letter confirming the decision.

- 3. **Execution of Intra-branch Agreement.** After approval of the CFR application by either the director or the TCFMAC, as applicable, and barring any unresolved concerns with respect to

the CFR application, the trial court and the Judicial Council will execute an IBA that authorizes the council to either (a) provide the services and materials necessary to complete the project(s) listed in the CFR or (b) enter into the lease or lease extension described in the CFR; directly pay the costs covered by the trial court's CFR from the TCTF; and reduce the trial court's distribution from the TCTF in the manner specified in the IBA. The Judicial Council shall not proceed with any of the project(s) listed in the CFR application (including executing any lease documents) until an IBA is executed by the trial court.

4. **Reporting.** The Judicial Council's Facilities Management Unit must report to the TCFMAC at each scheduled TCFMAC meeting regarding all CFRs approved since the last scheduled TCFMAC meeting. In addition, FPM must report to the council quarterly regarding all CFRs approved during the previous quarter. Those reports must specify the nature of the costs covered by each trial court's contribution, key terms for any leases (e.g., start and end dates of term, options to renew, early termination provisions, covered improvements, and total cost), and the total amount of the expenditure and allocation reduction for each CFR.
5. **CFR Application Form Revisions.** The council delegates to the TCFMAC the authority to approve revisions to the CFR application form as needed; however, the CFR application form must include a statement that the trial court has verified its ability to meet the financial commitments relating to the CFR. Trial court input will be sought before any revisions are made to the form.