

Guidelines for the Administrative Director of the Courts When Making Adjustments to Allocations from the State Trial Court Improvement and Modernization Fund

Issue

Should the Judicial Council (Council) delegate the authority to the Administrative Director of the Courts (Administrative Director) to make adjustments to allocations approved by the council for projects and programs funded from the State Trial Court Improvement and Modernization Fund (STCIMF)?

Background

Beginning in FY 2012–2013, the STCIMF was established by amended Government Code section 77209 (Senate Bill 1021 (Stats. 2012, ch. 41)) as the successor fund of both the Trial Court Improvement Fund (Improvement Fund) and the Judicial Administration Efficiency and Modernization Fund (Modernization Fund). Pursuant to Government Code section 77209(f), moneys deposited in the STCIMF shall be administered by the Council, but the Council “may, with appropriate guidelines, delegate to the Administrative Director of the Courts the administration of the fund.”

From FY 2000–2001 to FY 2008–2009 the council delegated to the Executive & Planning Committee (E&P Committee) the authority to approve allocations from the Improvement Fund and the Modernization Fund. During that period, the Administrative Director was given the authority, within the guidelines approved by the council, to make adjustments to allocations and approve new allocations. From FY 2009–2010 to FY 2011–2012, the council approved Improvement Fund and Modernization Fund allocations and the delegated authority to the Administrative Director remained the same as that under the E&P Committee. In FY 2012–2013, the council delegated the Administrative Director the authority to make adjustments not to exceed 20 percent of a STCIMF allocation approved by the council.

Options

Option 1 – No Delegation of Authority

This option would not delegate any authority to the Administrative Director and require the council to consider and approve any and all requested adjustments, both major and minor, to allocations.

Option 2 – Authority to Make Transfers Between Allocations

The Administrative Director is authorized to make transfers between allocations subject to the following:

- The sum of any allocation transfers cannot exceed 20 percent of any allocation to be reduced nor 20 percent of the allocation to be augmented.
- The Administrative Director must notify the chair person of the council’s E&P Committee in advance of the transfer.
- The Administrative Director must report back to the council the rationale and amounts of any approved adjustments after the end of the fiscal year.

In situations where projects/programs will realize savings during the year and project/programs might face minor unanticipated cost increases, this option would allow the Administrative Director to make the adjustments instead of requests going before the council. In this option, the Administrative Director could not augment the total level of allocations approved by the council, but only transfer between approved allocations.

Option 3 – Option 2 Plus Authority to Augment Allocations

The Administrative Director is authorized to make transfers between allocations and augment approved allocations subject to the following:

- The sum of any allocation transfers cannot exceed 20 percent of the allocation to be reduced nor 20 percent of the allocation to be augmented.
- The sum of any augmentations of an allocation cannot exceed 20 percent of the allocation amount or \$230,000, whichever is less, and the Administrative Director must confirm that there are available monies and expenditure authority for the augmentation.
- The Administrative Director must notify the chairperson of the council's E&P Committee in advance of any transfer or augmentation.
- The Administrative Director must report back to the council the rationale and amounts of any approved adjustments or augmentations after the end of the fiscal year.

Identical to the delegated authority in Option 2, but would also provide the Administrative Director the authority to augment an allocation by an amount not to exceed \$230,000, which is 20 percent of the average allocation amount in 2012–2013. It is possible that a project/program might face minor unanticipated cost increases but that no other project/program is anticipating savings, and the approval of the augmentation might be required between council business meetings. In such situations, the Administrative Director would have the authority to augment a project/program allocation. Unlike Option 2, in Option 3, the Administrative Director could augment the total level of allocations approved by the council.

Recommendation

AOC is recommending that the TCBAC support Option 2. Requests for augmentations that required immediate action have been rare, and the council can make decisions between business meetings.

Alternatives

For Options 2 and 3, the TCBAC can recommend and the council should consider requiring the E&P chairperson to approve or disapprove any adjustments that are proposed by the Administrative Director. In addition, the transfer cap can be revised upward (e.g., to 30 percent) or downward (e.g., to 10 percent).