



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on August 25–26, 2016

Title	Agenda Item Type
Court Facilities: Budget Allocations for Statewide Trial Court Facility Modifications and Planning in Fiscal Year 2016–2017	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	August 26, 2016
Recommended by	Date of Report
Trial Court Facility Modification Advisory Committee	August 16, 2016
Hon. Donald Cole Byrd, Chair	Contact
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Executive Summary

The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends allocations of the \$65 million appropriated by the Legislature for trial court facility modifications in the fiscal year (FY) 2016–2017 State Budget. The recommended allocations support facility modification planning and facility modifications for emergency and critical needs.

Recommendation

The TCFMAC recommends that the Judicial Council, effective August 26, 2016, approve allocations of the \$65 million authorized by the Legislature for statewide court facility modifications (FM) and planning in FY 2016–2017 as follows:

1. Priority 1 facility modifications allocation of \$7 million (11 percent of total allocations);

2. Priority 2–6 facility modifications allocation of \$46.2 million (71 percent of total allocations);
3. Planned facility modifications allocation of \$6.2 million (9.5 percent of total allocations); and
4. Statewide facility modifications planning allocation of \$5.6 million (8.5 percent of total allocations).

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*, adopted by the Judicial Council in 2005 and revised on July 27, 2012, and again on December 12, 2014.¹ 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 FY 2015–2016 FM budget of \$65 million at the August 20, 2015, 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 FM budget proposal in alignment with the *Trial Court Facility Modifications Policy*. The committee's charge tasks the TCFMAC with providing recommendations and advice directly to the Chief Justice, Judicial Council, and Administrative Director.

Allocation strategy

The FM 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. Beginning with the FY 2014–2015 FM budget, 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 staff positions, and an ongoing increase of \$12 million per year and staff three positions from the General Fund for transfer to the Immediate and Critical Needs Account (ICNA) to fund trial court facility modification

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.

projects. Although the funding of \$15 million was approved, the Department of Finance (DOF) declined to provide any additional general funding. DOF acknowledged the need for additional staffing to execute the funding but again provided no General Fund money to support the positions.

Based on the minimum industry standard for capital infrastructure reinvestment of 2 percent, the total reinvestment need is for \$77 million annually. This amount reflects a current funding shortfall of \$12 million, with a backlog of identified projects. The requested funding will address 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. Beginning in FY 2014–2015 and in compliance with new DOF requirements, this deferred-maintenance backlog has been submitted to DOF with the Capital Outlay Five-Year Infrastructure Plan.

The judicial branch submitted a budget change proposal for the additional \$12 million and four positions to support planned facility modifications project requirements for the 2016–2017 fiscal year, but the DOF declined the request. The council also submitted a General Fund request for \$27 million and four positions to support operations and maintenance services throughout the courts. This request would have brought the current operations and maintenance funding to the BOMA (Building Owners and Managers Association) industry-standard level of funding. It was also denied.

The existing budget of \$65 million included in the Budget Act of 2016 and allocated for facility modification projects will be consumed by the continuous emergency and critical needs projects that arise every day in California’s court facilities.

The strategy proposed by the TCFMAC will allow the branch to address emergency and critical needs FM 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.

Some of the program’s FM priorities are determined by external forces, such as Air Quality Management District requirements that polluting boilers be replaced even if they are otherwise functional. Within the last few years, the State Fire Marshal has made a more concerted effort (which is greatly appreciated) to provide thorough inspection of state-owned courthouses. These same buildings were previously inspected by the counties, which owned them before transfer to the state. Not surprisingly, as the State Fire Marshal continues to take a close look at the branch’s existing buildings, various problems are being found. Similar expenses are expected to arise until such time as all state-owned judicial facilities get a careful assessment by fire-safety professionals.

Pervasive risk of seismic failure

Half of the square footage of existing courthouses remains Level 5 in terms of seismic risk, based on the *Superior Courts of California Seismic Assessment Program (2002-2005)*. This means that there is a “substantial” risk of loss of life. As a result of the lack of funds, there are no plans to address these vulnerabilities in the foreseeable future. The various counties have agreed to indemnify the branch for tort liability and repair costs in the event of seismic failure in these buildings, but the counties are not currently retrofitting the buildings to improve their seismic durability. The branch has been on notice of these conditions for over a decade. Recently, the committee heard a plan from the Judicial Council’s Risk Management Unit to develop a database of facilities with seismic risk and an eventual proposal to begin addressing issues as funding permits.

Funding sources and budget

The Facility Modification program is funded from two sources:

- State Court Facilities Construction Fund (Sen. Bill 1732; Stats. 2002, ch. 1082); and
- Immediate and Critical Needs Account (Sen. Bill 1407; Stats. 2008, ch. 311).

The total legislative appropriations for facility modifications in FY 2016–2017 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 \$5.6 million toward the costs associated with facility assessments and facility modifications 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 materials plans; and continuation of facility analysis using engineers, technicians, and trade professionals to determine the condition of facilities within the Real Estate and Facilities Management portfolio. These tasks are necessary 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 \$5.6 million is a \$1.6 million increase from the previous year’s allocation. This funding will meet increased demand for engineering studies, retro-commissioning studies, and plan checks and inspections. Additionally, the allocation will allow the REFM Business Applications unit to analyze and address facility square footage accuracy.

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 a \$3 million decrease from the FY 2015–2016 amount, based on three-year trend data, the anomaly of the Napa earthquake that affected the FY 2015–2016 budget, and the lack of expected impact on that year’s budget from the Humboldt central plant failure.

Planned facility modifications

The TCFMAC recommends five facility modification projects as planned work. This work represents high-priority projects that were not funded in the previous fiscal year as a result of budget constraints. These five projects total \$6.2 million and are detailed on Attachment A.

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

Allocation for Priority 2–6 facility modifications

The TCFMAC recommends allocating most of the remainder of the budget, \$46.2 million, to Priority 2–6 facility modifications. 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.

Energy and water consumption studies have been, and will continue to be, performed on a number of targeted facilities. The studies include the identification of operational and facility modifications that will reduce ongoing utility costs. In FY 2015–2016, \$2 million of facility modification funds was allocated to energy-efficiency projects. In FY 2014–2015, the allocation was \$1 million. In FY 2013–2014, \$1.3 million of facility modification funds was allocated for this purpose. In an effort to continue to increase the efficiency and sustainability of courthouse facilities, the committee has decided to allot more funds than ever before—\$10 million—in support of this effort for FY 2016–2017. The estimated cumulative return on that investment in the form of utility cost savings is approximately \$1.5 million annually.

Allocation for Governor’s budget for deferred-maintenance facility modifications

This year, the Governor approved a one-time allocation of \$45 million General Fund monies to address part of the judicial branch’s court facilities backlog. To methodically distribute funds, the committee approved a ranked and prioritized list of FMs for submittal to DOF. The majority of funding will be put toward replacing beyond-useful-life roofs and conveyance systems. Based on expressions of court need, these two building systems constitute the highest priority statewide. Eventually, funds will be expended toward HVAC systems replacement—a close third priority-wise. The branch will have two years to encumber funds from this allocation. During this period, individual projects from the list will be brought to the committee for funding approval as staff develops firm estimates and identifies project management resources.

Comments, Alternatives Considered, and Policy Implications

This report was posted for court comment and sent directly to trial court leadership from, August 1 through 10, 2016. No comments were received. Hence, no alternatives were presented for consideration. This budget allocations report has no policy implications.

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 conservative funding plan to allow sufficient funds for critical needs as they are identified by the courts and 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 2016–2017 Facility Modification Program budget will be allocated as the council approves, including as determined by the TCFMAC under the council-approved policy. The allocations recommended in this report result in no costs to the trial courts.

Attachments

1. Attachment A: *Trial Court Facility Modification Planned Facility Modifications (List G), FY 2016–2017*
2. Attachment B: Consequences of Inadequate Operations and Maintenance Funding, August 16, 2016



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT FACILITY MODIFICATION
ADVISORY COMMITTEE

ATTACHMENT A
Trial Court Facility Modification
Planned Facility Modifications (List G)
FY 2016-2017

	FM NUMBER	LOCATION	FACILITY NAME	BUILDING ID	PRIORITY	SHORT TITLE	ESTIMATED COST	FACILITY MODIFICATION PROGRAM SHARE OF COST	FACILITY MODIFICATION PROGRAM BUDGET % OF COST
1	FM-0054638	Los Angeles	Michael D. Antonovich Antelope Valley Courthouse	19-AZ1	2	HVAC - Replace failing BAS hardware and communication network, including restoration of disabled VAV control hardware associated resulting from failed communication trunk line and manual operation of VAV units. System is no longer supported and replacement parts are no longer available.	\$ 1,939,938	\$ 1,426,048	73.51%
2	FM-0040539	Orange	Central Justice Center	30-A1	2	HVAC - Replace 17 50-year old and unreliable Air Handling Units serving the basement through 3rd floor of the facility; abate asbestos on piping as required; integrate units into BAS system. Air handler units fail frequently and require constant ongoing maintenance to keep operational. New more efficient units will reduce total AHU count and provide more efficient supply and control for the court.	\$ 3,077,400	\$ 2,805,666	91.17%
3	FM-0029372	Orange	Central Justice Center	30-A1	2	Substructure - Remove and replace failed expansion joint located under backfilled fountain area. Remediate corrosion on main support column impacted by failed expansion joint. Regrade backfill to eliminate water penetration into the lobby area and remediate drywall damage to underground parking garage. County backfill of pond area created long term water related corrosion to main support column and flooding issues within the lobby area.	\$ 451,250	\$ 411,405	91.17%
4	FM-0056918	Santa Cruz	Main Courthouse	44-A1	2	HVAC - Replace failing court exclusive Air Handling Unit with Variable Air Volume system and integrate into existing building hot water register. Add BAS controls and replace corroded water control valves. Existing unit is not sufficient to support current occupancy requirements and is not currently controlled by the BAS system.	\$ 121,500	\$ 121,500	100.00%
5	FM-0040421	Merced	Downtown Merced Courthouse	24-A8	2	Interior Finishes - Remodel existing shell space into a Courtroom. The project will be approximately 2,000 square feet in size. Project scope will include construction of a courtroom in the shelled space, removal of a wall dividing the judicial chambers, and addition of a divider into the in-custody dock at the high volume courtroom to separate the large single space into two staging areas. Project supports court's consolidation and closure of a leased facility.	\$ 1,437,525	\$ 1,437,525	100.00%
							\$ 7,027,613	\$ 6,202,144	



Consequences of Inadequate Operations and Maintenance Funding

August 16, 2016

Executive Summary

The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends that a budget change proposal (BCP) be vigorously advocated by the Judicial Council to supplement the Court Facilities Trust Fund (CFTF; Fund 3066) in fiscal year (FY) 2017–2018 with General Fund monies. The committee recommends a BCP request for \$27.5 million (General Fund transfer to the CFTF), which includes approximately \$22.5 million to finance costs associated with maintaining existing trial court facilities statewide at industry-level business management standards and \$5 million for maintenance of security equipment. Failure to pass this BCP would result in the elimination of essential preventive maintenance, the degradation of the current mediocre level of landscaping services for courthouses, and the elimination of onsite maintenance staff in many locations.

Consequences of Inadequate O&M Funding

For nearly every infrastructure or mechanism requiring maintenance—whether involving an automobile, aircraft, or building—preventive maintenance is necessary to obtain the maximum useful service life for key components. For example, a car requires routine oil checks and changes to avoid premature engine failure. The same holds true for many courthouse components that contain pumps, filters, switches, brakes, electronic controls, and the like. The state inherited many courthouses that had been poorly maintained by the counties over the preceding decade. The branch’s inability to provide an adequate level of preventive maintenance, combined with its inability to finance with facility modification (FM) funds the overhaul of systems being used far beyond their scheduled service life, has caused the continued deterioration of the overall condition of California’s existing courthouses. The facilities program is now bound to providing “run to failure” solutions to emergency problems—not a rational approach to timely remediation of known problems. The lack of adequate preventive maintenance is a key source of the problem because it forces the program to allow known problems to deteriorate until the point of total failure (and consequently disruption to court operations) so that the needed work can be justified as a Priority 1 or Priority 2 FM.

Fund 3066, the Court Facilities Trust Fund, is the sole source of funding for building operation expenses (commonly known as “O&M expenses,” as compared to FM spending), specifically, expenses for utilities, leases, insurance, and routine or preventive maintenance. Table 1 shows the cost trends for these several categories in recent years. Note, in particular, that judicial branch utility costs are projected to increase more than 39 percent over the FY 2010–2011 costs because of increased rates and occupancy of new courthouses.

Table 1. Cost Trends for Court Building Operation Expenses, by Fiscal Year (FY)*

Category of Expense	FY 2010–2011	FY 2011–2012	FY 2012–2013	FY 2013–2014	FY 2014–2015	FY 2015–2016	FY 2016–2017 (Estimated)
Utilities	\$40,005	\$44,109	\$45,961	\$47,043	\$48,335	\$52,039	\$55,643
Insurance	1,789	1,227	1,802	1,775	1,638	1,617	1,946
Rent	15,627	15,504	15,123	16,927	16,660	17,269	14,134
Routine Maintenance	48,899	38,821	40,489	46,979	47,057	46,239	49,638
Total	\$106,320	\$99,661	\$103,375	\$112,724	\$113,690	\$117,164	\$121,361

* Dollars in thousands.

The bulk of the revenue (see Table 2) to pay these expenses comes from County Facility Payments, which by statute are fixed amounts and have not received an inflationary adjustment since FY 2008–2009. Although Senate Bill 1732 anticipated that shortfalls in O&M funding would be covered by supplemental General Fund contributions to Fund 3066, the Legislature and Governor have declined to honor this commitment even as utility rates increase and new courthouses come online via the Senate Bill 1732 and Senate Bill 1407 construction programs.

Table 2. Fund 3066 Revenues for Court Building Operations, by Fiscal Year (FY)*

Revenues/ Resources	FY 2010–2011	FY 2011–2012	FY 2012–2013	FY 2013–2014	FY 2014–2015	FY 2015–2016	FY 2016–2017 (Estimated)
CFPs**	\$89,711	\$90,198	\$90,484	\$94,407	\$96,542	\$96,135	\$96,450
General Fund	8,053	8,053	8,053	8,053	8,053	8,053	8,053
Night Court Fees	1,906	5,013	2,636	2,159	2,367	1,586	1,566
Rental	3,235	4,861	3,928	4,677	7,942	8,301	6,790
Other/Misc Income	209	2,568	886	479	102	259	147
Revenue Transfer (Debt Svc)	0	0	0	0	0	0	–377
Total	\$103,114	\$110,693	\$105,987	\$109,775	\$115,006	\$114,334	\$112,629

* Dollars in thousands.

** CFPs = County Facility Payments.

Note in table 2 that in the majority of years (e.g., FY 2010–2011 and FY 2013–2014), Fund 3066’s O&M expenses have exceeded their revenues. Until now, this imbalance has been possible because Fund 3066 cash-flow management practices have allowed a minimal fund balance to support limited budget variations over time.

The inadequacy of O&M funding has been a significant issue since at least FY 2009–2010, when the branch completed the transfer of 15 million square feet of courthouse space from the counties

to the state. Changes since then, however, have compounded the problem, and these pressures continue to intensify as the Capital Program brings to completion many more new courthouses. Utility and lease expenses have incurred inflationary increases, and the only line item that can be adjusted downward to offset these cost increases is the routine-maintenance line. This year, to stay within budget, preventive maintenance work will decrease to minimum code compliance requirements, standby generator maintenance, and annual HVAC filter replacements only. This budget-driven cut in services will result in increased system failures, negative impact on court operations, and overall increased costs to the council, the courts, and the public.

Continued lack of General Fund reinvestment in the state's court infrastructure will lead to even higher cuts in FY 2017–2018 in routine and preventive maintenance. These cuts will necessitate the elimination of additional non-code-compliant preventive maintenance work, potential decreases or elimination of standard services such as landscaping maintenance and pest control, and eventually (and most detrimental to the courts) the elimination of building-based technicians. These potential operational cuts will increase the system failures and limit response capability of the branch, creating court closures, increasing mitigation costs, and generating disruptions to the services the branch provides. Public and court satisfaction with the services provided by the Judicial Council will decrease.

It is essential that the Judicial Council vigorously pursue and clearly express the importance of one or more BCPs for additional funding of O&M expenses from the General Fund. As noted above, the TCFMAC believes that the BCP currently under consideration for \$27.5 million (General Fund transfer to the Court Facilities Trust Fund) is reasonable. This request includes approximately \$22.5 million to finance costs associated with maintaining existing trial court facilities at industry-level business management standards and \$5 million to maintain security equipment. If the full amount cannot be obtained, some lesser amount must be obtained to avoid insolvency in this account.