



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: March 15, 2019

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**Title**

Court Facilities: Revised *Trial Court Facility Modifications Policy*

**Rules, Forms, Standards, or Statutes Affected**

None

**Recommended by**

Trial Court Facility Modification Advisory Committee  
Hon. Donald Cole Byrd, Chair  
Hon. William F. Highberger, Vice-chair

**Agenda Item Type**

Action Required

**Effective Date**

March 15, 2019

**Date of Report**

March 1, 2019

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## Executive Summary

The Judicial Council's policy on trial court facility modifications presents the methodology and processes for identifying and prioritizing facility modifications that improve trial court facilities statewide. More than six years of implementation since the July 2012 update has necessitated updating the current policy. This update improves the policy's overall clarity and readability for application to current business practices, particularly in defining, scoring, and prioritizing facility modifications. The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends the Judicial Council adopt the revised *Trial Court Facility Modifications Policy*.

## Recommendation

The Trial Court Facility Modification Advisory Committee recommends that the Judicial Council, effective March 15, 2019, adopt the revised *Trial Court Facility Modifications Policy* (see Attachment A).

## **Relevant Previous Council Action**

On July 27, 2012, following more than three years of implementation of its previous policy (i.e., *Prioritization Methodology for Modifications to Court Facilities*) as well as the need to better clarify the definition of a facility modification, the council adopted the *Trial Court Facility Modifications Policy* (see Attachment B). The minutes of the July 27, 2012, council meeting are available (see Link A).

## **Analysis/Rationale**

Government Code section 70391(h) requires the Judicial Council to allocate appropriated funds for the maintenance and construction of court facilities. Government Code section 70374(c)(1) authorizes the use of funds in the State Court Facilities Construction Fund for projects involving, among other things, rehabilitation, renovation, or replacement of court facilities. The policy on trial court facility modifications presents the methodology and processes for identifying and prioritizing facility modifications that improve trial court facilities statewide.

The revisions to the current policy focus on removing all content not pertinent to policy-level information on facility modifications and adding language for clarity and transparency:

1. Section II was edited to incorporate energy efficiency and conservation of water usage in the definition of a facility modification and to remove references to routine maintenance, the Customer Service Center, and budget allocation, which have since become outdated or out of context.
2. Section III was edited (1) under Subsection A to include an explanation of how potential facility modifications are identified; (2) under Subsection B to classify all energy-efficiency projects as Priority 3 (unless a component of the overall project) and reference the new Attachment A that provides examples of priority levels for specific types of projects (e.g., Paint/Wall Covering and Window Covering); and (3) under Subsection C to include language to explain the scoring and prioritizing of Priorities 2–6 facility modifications for improved processes transparency, remove the reference to “working group” since the TCFMAC was elevated to an advisory committee in 2013, remove outdated language on an annual recommendation to the council, and clarify language on the role of the TCFMAC in making funding recommendations/requests for reconsiderations.
3. Section IV was edited to clarify the council’s receipt of quarterly reports on facility modifications.

The revised *Trial Court Facility Modifications Policy* would replace and supersede the version approved by the Judicial Council on July 27, 2012.

## **Policy implications**

Not updating the policy at this time would maintain existing content that lacks improved clarity, readability, and alignment with current business practices.

## **Comments**

On September 24, 2018, the revised policy was presented to the leadership of the Court Executives Advisory Committee (CEAC) and Trial Court Presiding Judges Advisory Committee (TCPJAC) for comment as well as direction on how it should be shared with all CEAC and TCPJAC members. On September 26, 2018, the revised policy was distributed to all CEAC and TCPJAC members for comment. By October 4, 2018, a total of five trial courts had submitted comments, which have been addressed as shown in the attached chart of comments at pages 4–5.

Also, the TCFMAC had discussed the revised policy at its public meetings on July 20, 2018, and January 28, 2019. No public comments were received.

## **Alternatives considered**

No alternatives to the recommended council action were considered.

## **Fiscal and Operational Impacts**

No new costs will be incurred by implementing the recommended council action, as it is performed on behalf of the council by its Facilities Services staff. Funding decisions for trial court facility modifications will continue through the oversight of the TCFMAC. The current level of funding allows the TCFMAC to address only the most critically needed Priorities 1 and 2, and some Priority 3 facility modifications statewide. Also, and for shared-use facilities, facility modification implementation is dependent on financial participation by the county that shares the building.

## **Attachments and Links**

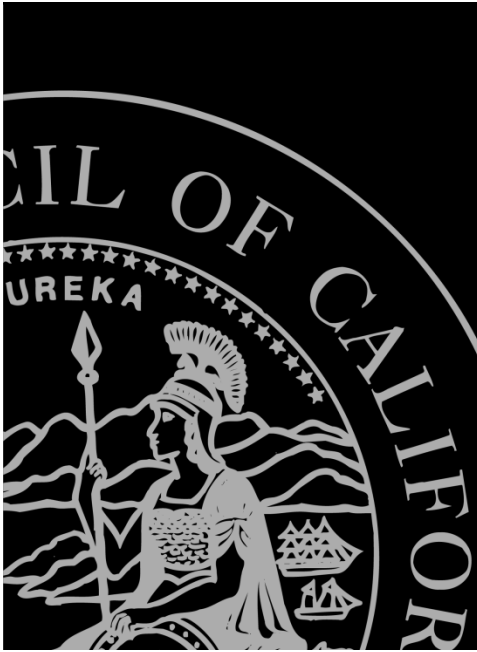
1. Chart of Comments: Summary: Superior Court Comments on the 2019 Revisions to the *Trial Court Facility Modifications Policy*, January 28, 2019, at pages 4–5
2. Attachment A: *Trial Court Facility Modifications Policy*, revised March 15, 2019
3. Attachment B: *Trial Court Facility Modifications Policy*, July 27, 2012
4. Link A: Judicial Council meeting minutes (July 27, 2012), [www.courts.ca.gov/documents/jc-20120727-minutes.pdf](http://www.courts.ca.gov/documents/jc-20120727-minutes.pdf)

## Comments Summary: Superior Court Comments on the 2019 Revisions to the *Trial Court Facility Modifications Policy*

	Commentator	Comments	Judicial Council Staff Responses
1.	Ms. Kimberly Flener Court Executive Officer	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b></p> <ol style="list-style-type: none"> <li>Attachment A – American with Disabilities Act - Priority 4 states that most work falls under this priority. It then goes on to mention examples of the type of issues that are “not compliant”. We would suggest adding additional context to this priority that these examples aren’t compliant under existing law but have been “grandfathered in” under older standards. In other words, these are not code violations in their current state.</li> <li>Attachment A – Vandalism and Graffiti Mitigation – Vandalism and Graffiti are special cases and we’re questioning whether they really fall into priority levels where some could be funded and some not due to budget constraints (e.g. if all priority 1 and 2 assigned occurrences are funded but lower assigned occurrences are not funded due to budget constraints). It seems that any vandalism and graffiti should be viewed at the same priority level (high) and that it should be dealt with as soon as possible. If it goes unaddressed, it could proliferate.</li> </ol>	<ol style="list-style-type: none"> <li>In Attachment A – ADA, Priority 4’s language was revised to clarify the examples of existing conditions.</li> <li>The Trial Court Facility Modification Advisory Committee (TCFMAC) agrees with the policy language under Attachment A, page 11.</li> </ol>
2.	Mr. Sherri R. Carter Court Executive Officer	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b></p> <ol style="list-style-type: none"> <li>Despite the obvious budget uncertainties experienced in this area, the previous policy's clarity about funding categories provided a valuable benchmark. It is important for this policy to describe how modifications are to be funded (especially, for instance, should funding be available for Priority 2 and lower projects).</li> <li>The results of the process for Scoring and Prioritizing must be made available to all courts. The proposed process could provide valuable transparency about FM decisions, but only if the detailed scoring is widely available.</li> <li>Re: Prioritization scheme: Criterion 3, Feasibility, and Criterion 5, Design Status, both reflect whether the FM is design-ready. There should not be such redundancy among the criteria. In this instance, a project that has a high need, but is not design-ready, will get marked down twice.</li> <li>Re: Attachment A: Generally, the policy should make clear it pertains to courthouse lockups.</li> <li>Re: Attachment A: Paint/Wall Covering: <ol style="list-style-type: none"> <li>Priority 3 seems to assume that "excessive wear" is a factor in Priority 2. Priority 2 should say so.</li> <li>Managed, but not-abated, hazardous materials should be a higher priority.</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>Statement on funding was added under Section II, B.</li> <li>Because Priority 1 and 2 facility modifications (FMs) are funded outright, no scores are generated. For FMs over \$100,000, which includes Priority 3 FMs, scores are shown in List D – <i>Facility Modifications Greater Than \$100K</i>.</li> <li>Criterion 3: Feasibility was revised.</li> <li>Courthouse lockups are included in the discussion of the space and do not need to be called out separately.</li> <li>The TCFMAC agrees with the policy language under Attachment A, page 8.</li> </ol>

## Comments Summary: Superior Court Comments on the 2019 Revisions to the *Trial Court Facility Modifications Policy*

	Commentator	Comments	Judicial Council Staff Responses
		<p>6. Re: Attachment A: Flooring:</p> <ul style="list-style-type: none"> <li>a. Priority 1 should be expanded. The complete collapse of a sub-floor is a rare event. Priority 1 should include the more common cause of immediate flooring replacement need: flooding with or without asbestos contamination. Also, the example given is not illustrative of Priority 1 issues.</li> <li>b. "Significant safety hazards" should be Priority 1, not Priority 2.</li> <li>c. Managed, but not-abated, hazardous materials should be a higher priority.</li> </ul> <p>7. Re: Attachment A: ADA: Priority 2, written claims: should be rewritten to clarify that claims should be submitted by the CEO.</p> <p>8. Re: Attachment A: Vandalism and Graffiti Mitigation:</p> <ul style="list-style-type: none"> <li>a. In Priority 1, reference to "structural building components" is out of place. Roof membranes may be affected by vandalism and should be Priority 1.</li> <li>b. The language of Priority 2 seems to imply that vandalism only takes place in designated public spaces. But the policy should cover courtrooms and other Court-exclusive spaces.</li> </ul>	<p>6. (a) In Attachment A - Flooring, Priority 1 Flooring's language has been revised.</p> <p>(b) Current practice is safety hazards are brought to the TCFMAC as Priority 2 FMs.</p> <p>(c) The TCFMAC agrees with the policy language under Attachment A, page 9.</p> <p>7. In Attachment A – ADA, Priority 2's language was revised.</p> <p>8. (a) The TCFMAC agrees with the policy language under Attachment A, page 11.</p> <p>(b) In Attachment A – Vandalism/Graffiti Mitigation, Priority 2's language was revised, and the comment was passed to the TCFMAC for discussion.</p>
3.	Hon. Lydia M. Villareal Presiding Judge  Mr. Chris Ruhl Court Executive Officer	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY</b></p> <p>1. No comments or concerns about the revised language.</p>	No response required.
4.	Mr. David H. Yamasaki Court Executive Officer	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b></p> <p>1. No comments or concerns about the revised language.</p>	No response required.
5.	Hon. John P. Vandeer Feer Presiding Judge	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO</b></p> <p>1. No comments or concerns about the revised language.</p>	No response required.



# **Trial Court Facility Modifications Policy**

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ADOPTED: JULY 27, 2012

REVISED: MARCH 15, 2019



JUDICIAL COUNCIL  
OF CALIFORNIA

## **I. Purpose**

Government Code section 70391(h) requires the Judicial Council to allocate appropriated funds for the maintenance and construction of court facilities. Government Code section 70374(c)(1) authorizes the use of funds in the State Court Facilities Construction Fund for projects involving, among other things, rehabilitation, renovation, or replacement of court facilities. This document presents the methodology and process for identifying and prioritizing facility modifications (Facility Modifications) to be made to trial court facilities, the responsibility or title for which rests with the state.

This *Trial Court Facility Modifications Policy* replaces and supersedes the version approved by the Judicial Council on July 27, 2012.

## **II. Facility Modifications**

A Facility Modification is a physical modification to a facility or its components that restores or improves the designed level of function of a facility or facility components. A Facility Modification may consist of:

- A modification that alters or increases the designed level of services of a building;
- A “special improvement,” meaning a one-time modification to a facility that is not expected to be repeated during the lifetime of the facility;
- An alteration, addition to, or betterment of a facility that changes its function, layout, capacity, or quality;
- An alteration, addition to, or betterment of a facility that makes the facility more energy efficient and/or conserves water usage;
- A rehabilitation, which restores a facility to its former state or capacity;
- A renovation, which restores a facility to a former or better state, including by repairing or reconstructing facility components;
- A replacement, which puts a new facility component of the same or better quality or function in the place of an existing facility component;
- The addition of new systems, equipment, or components to a facility that would not otherwise exist;
- A modification to a facility that is required to bring the facility into compliance with law, including but not limited to the Americans with Disabilities Act, title 24 of the California Code of Regulations, and federal and state hazardous materials laws and regulations;
- Any of the foregoing where a facility or its components are damaged, seriously deteriorated, dysfunctional, subject to intermittent service outage, or otherwise in insufficient operating condition as a result of deferred maintenance, emergencies, acts of God, severe wind or weather conditions, vandalism, or criminal activity; and
- A correction of collateral damage arising from an emergency incident or unanticipated finding that is discovered during the performance of Facility Modification work.

A Facility Modification differs from routine maintenance and repair of a court facility, which is the routine, recurring, and generally anticipated work that must be performed periodically throughout the life of a facility to keep the building and its grounds, equipment, and utilities infrastructure in a condition adequate to support their designed level of service. Routine maintenance and repair includes annual or less frequent periodic repairs and replacements of building components and equipment consistent with manufacturers' recommendations or industry-recommended service cycles.

While a Facility Modification may either restore **or** improve a facility's designed level of function, routine maintenance and repair always maintain, without materially improving, the facility and its components at their designed level of function. Routine maintenance and repair is the basic and ongoing work that is needed, as part of ordinary facility operation and management, to keep the facility and its components in a condition adequate to support existing facility operations and to prevent deterioration, breakdown, and service interruptions.

Projects of greater scope and complexity or with a more critical impact on the ongoing safe and secure operation of the court facility are more likely to be Facility Modifications; however, for projects that are more difficult to distinguish, case-by-case evaluation is required.

A Facility Modification differs from a capital project, which significantly increases the facility's gross area; substantially renovates the majority (more than 50 percent) of the facility; involves the construction of a new facility or a facility acquisition; or changes the use of the facility, as in a conversion from another use to court use.

### **III. Prioritizing Facility Modification Projects**

#### **A. Identification of Potential Facility Modifications**

Judicial Council staff will work with trial court executive officers and their staff to document the court's operational needs. Facility conditions will be assessed by Judicial Council staff and contractors periodically to assess Facility Modification requests and requirements.

As set forth below, Judicial Council staff will assign a priority category to each modification requested or indicated, develop a preliminary cost estimate, and determine a high-level scope of work for the Facility Modification.

#### **B. Priority Categories for Facility Modifications**

Projects determined to be Facility Modifications will be assigned one of the six priority categories described below. However, the amount of the funding available annually determines which priorities can be funded.

***Priority 1—Immediately or Potentially Critical.*** A Priority 1 ranking is appropriate where a condition of the facility requires immediate action to return the facility to normal operations or



where a condition exists that will become critical if not corrected expeditiously. Such conditions necessitate a Facility Modification to prevent accelerated deterioration, damage, or dysfunction; to correct a safety hazard that imminently threatens loss of life or serious injury to the public or court employees; or to remedy intermittent function, service interruptions, or potential safety hazards. These conditions may include, but are not limited to, major flooding, substantial damage to roofs or other structural building components, or actual or imminent hazardous material release or exposure. Depending on the scope, complexity, and impact, a severe deterioration in life, safety, or security components may also be considered a condition requiring a Priority 1 Facility Modification.

Priority 1 Facility Modification requests will be addressed immediately by Judicial Council staff using internal procedures—including a method and a process for setting aside funds to address Priority 1 requests—that ensure timely and effective responses to unplanned damage, deterioration, or dysfunction resulting from an emergency or other potentially critical conditions.

***Priority 2—Necessary, But Not Yet Critical.*** A Priority 2 ranking is appropriate where a facility requires a modification to preclude deterioration, potential loss of function or service, or associated damage or higher costs if correction of a condition is further deferred.

***Priority 3—Needed.*** A Priority 3 ranking is appropriate where addressing a Facility Modification will reduce long-term maintenance or repair costs, or improve the functionality, usability, and accessibility of a court facility. Such a condition is not hindering the most basic functions of the facility, but its correction will improve court operations. All energy efficiency projects will be classified as Priority 3, unless energy efficiency is a component of the overall project.

***Priority 4—Does Not Meet Current Codes or Standards.*** A Priority 4 ranking is appropriate where a facility or one or more of its components does not conform to current code requirements, despite having complied with all codes in place at the time of initial construction. Such conditions are considered *legally nonconforming*, and their modification to meet current code requirements is generally not required.

***Priority 5—Beyond Rated Life, But Serviceable.*** A Priority 5 ranking is appropriate where a facility is currently adequate to support court operations but, owing to some condition, cannot be expected to fully and properly function as designed for more than one year without the requested Facility Modification.

***Priority 6—Hazardous Materials, Managed But Not Abated.*** A Priority 6 ranking is appropriate for a Facility Modification where a facility contains hazardous materials, such as asbestos or lead-based paints, that are managed in place and not yet abated.

Facility Modifications determined to be Priority 1 will be addressed immediately regardless of whether the facility is subject to a joint occupancy agreement with a county. Planned Priorities 2–6 Facility Modifications—located in a common area in a facility that is subject to a joint occupancy agreement with a county—will be assigned an appropriate priority category. However, the

implementation of that Facility Modification may be dependent on financial participation by the county that shares the facility.

**Attachment A** sets forth examples of priority levels for specific types of projects: Paint/Wall Covering and Window Covering, Flooring, Americans with Disabilities Act (ADA) Projects, and Vandalism and Graffiti Mitigation.

### **C. Scoring and Prioritizing Priorities 2–6 Facility Modifications**

Within each priority category, each proposed Facility Modification will be scored and prioritized by Judicial Council staff utilizing the first five criteria listed below. The Facility Modifications will be ranked within each priority with the lowest cumulative scores within a priority signifying the highest ranking and the highest scores within a priority signifying the lowest ranking.

**1. Justification and Effect on the Court:** This will be a score between 5 and 50, with 5 indicating the court is closed or court operations are significantly impacted (negatively) due to the need for the Facility Modification and 50 indicating the court is operating at standard productivity, **and** court appearance and dignity are not diminished by the condition. However, it would be desirable to complete the Facility Modification, but it is not essential for court operations. *Please note that any number between 5 and 50 can be used to quantify the justification and the effect this requirement has on the court.* The information below will assist in determining the correct number. Equity among courts can be taken into consideration when assigning appropriate values below.

- 5–15 Court operations are *significantly* impacted (negatively).
- 16–20 Court is operating, but at less than standard productivity.
- 21–35 Court appearance and dignity are diminished by the condition of the facility.
- 36–50 The court is operating at standard productivity, **and** court appearance and dignity are not diminished by the condition. However, it would be desirable to complete the Facility Modification.

**2. Safety, Security, Risk Management:** This will be a score between 5 and 25 (with 5 indicating there is a potential for serious risk and 25 indicating there is no risk). The focus here is on safety, security, and risk management/mitigation by taking into consideration public and employee safety. *Please note that any number between 5 and 25 can be used to quantify the effect this requirement has on the court.* The information below will assist in determining the correct number.

- 5–15 Potential serious risk
- 16–20 No significant risk
- 21–25 No risk

- 3. Feasibility:** This will be a score of 10, 15, 20, or 25, with 10 indicating the project is easy to perform and 25 indicating the project requires major design efforts and may not be practical to perform. Factors to consider when assigning a score are (a) whether the modification is a shared responsibility with a county that would require an independent agreement to share costs of that modification, (b) permitting issues, (c) funding availability, (d) planning and assessments, (f) court approvals, and (g) fire plans.

- 10 Easy to perform with little or no planning or assessments
- 15 Requires some planning and assessments
- 20 Requires major planning and assessments effort or shared cost difficult to receive
- 25 Requires major planning and assessments effort, may not be practical, shared cost highly unlikely

- 4. Cost/Benefit:** This will be a score based on the Simple Return on Investment (ROI)<sup>1</sup> value associated with the project. Deduction will be 3 points for each year of ROI less than seven creating a potential score of between -21 and -3. This criterion allows for Facility Modifications that will pay back the cost of the effort over shorter time frames to move up the list by using a negative score. An energy-saving improvement yielding reduced utility bills or an automation project resulting in a demonstrable reduction in labor expenses are good examples. Project documentation must be validated by Judicial Council staff.

- 0 ROI in excess of 7 years
- -3 ROI of 7 years
- -6 to -21 ROI of 6 to 1 years

For Facility Modifications, where energy efficiency is the primary component of the project, the project's ROI will be compared to the Maximum Investment Threshold (MIT)<sup>2</sup> of the measure being installed. For projects where ROI is less than MIT, the project will be awarded -3 points, plus a -3 point for every year the ROI is less than MIT, with a maximum score of -21.

- 0 ROI is greater than MIT
- -3 ROI is equal to MIT
- -6 to -21 ROI is less than MIT

- 5. Design Status:** This will be a score of 5, 15, or 25, with 5 indicating the project is designed and ready to perform today, and 25 indicating the designs will take more than 90 days to

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<sup>1</sup> Simple Return on Investment (ROI) is the gross project cost divided by the dollars saved annually.

<sup>2</sup> Maximum Investment Threshold is 50% of the maximum of either (a) the Effective Useful Life as defined by the California Public Utilities Commission (derived from Database of Energy Efficiency Resources) for the measure, or (b) Guaranteed Life (manufacturer's guarantee or warrantee exceeding stated Effective Useful Life) of the measure.

complete. Facility Modifications that require no design effort, or are already in design, will receive higher scores than those still requiring design effort.

- 5           Designed, ready to perform immediately
- 15          Designed, will be ready to perform within 90 days
- 25          Designs will take more than 90 days to complete

**6. Planned Major Capital Improvements:** Judicial Council staff can take into consideration whether there is a planned major capital project that would address the Facility Modification need in a reasonable period of time. If there is a planned major capital project that will address the Facility Modification need in a reasonable period of time, the Judicial Council may determine that it is not an efficient use of resources to implement the Facility Modification, notwithstanding the final scoring of the five criteria listed above.

#### **D. TCFMAC Review of Court Requests for Reconsideration**

The Trial Court Facility Modification Advisory Committee (TCFMAC) will meet as needed to review the Judicial Council staff-prepared reports, which will include a suggested ranked list of all proposed Facility Modifications with fully developed scopes of work and cost estimates as well as current funding availability. The total cost of all modifications on the draft ranked list may not exceed total available funding for the current fiscal year. Based on a review of the Judicial Council reports and any other available information, the TCFMAC will determine which modifications to recommend for funding in the current fiscal year and which should be deferred for future consideration based on funding availability. The TCFMAC may also determine that certain items do not qualify as Facility Modifications and remove them from the list of recommended projects.

Courts and Judicial Council staff may request that a decision made by the TCFMAC be reconsidered. Such requests could address funding, prioritization, or scoring decisions. All such requests must be in writing and signed by the presiding judge or court executive officer, or, if from the Judicial Council, the director of Facilities Services. Requests for reconsideration should be submitted to the chair of TCFMAC. The TCFMAC will then review all the information and make a final determination.

#### **IV. Quarterly Reports to the Judicial Council**

Judicial Council staff will develop a quarterly report for each quarter of the fiscal year, to be approved by TCFMAC and provided to the council as an informational item. The report will include a list of all Facility Modifications funded during the quarter, as well as any reallocation of funds between the funding categories. The final quarter report for each fiscal year will also include the annual summary of Facility Modifications for the prior fiscal year.

## Paint/Wall Covering and Window Covering

The following priorities are applicable for Facility Modifications involving paint/wall covering and window coverings when paid for by the Judicial Council. However, rule 10.810 of the California Rules of Court authorizes courts to use their operating funds for interior painting. If a local court elects to utilize its own operating funds for interior painting, then these priorities are not applicable since the costs are being paid for by the local court and will not be funded as a Facility Modification project pursuant to this policy.

**Priority 1:** Only when done as part of a larger Priority 1 Facility Modification that would require painting to complete the repair. For example, if a water leak resulted in replacement of sheetrock, painting to match the preexisting color would be included in the renovation effort.

**Priority 2:** Only used for significant safety hazards (e.g., peeling lead-based paint). Priority 2 Facility Modifications should be limited to the minimum effort needed to address the immediate concern (corner-to-corner painting versus whole room).

**Priority 3:** Use when excessive wear does not justify a Priority 2 Facility Modification but impacts the dignity of the court to a level that its correction will improve court operations and provide minimal maintenance standards; for example, repainting and wall covering repairs in public common areas and courtrooms where the wear/damage indicates a total lack of concern for basic maintenance standards. Priority 3 projects should be limited to the minimum effort needed to address the immediate concern (corner-to-corner painting versus whole room). Priority 3 Facility Modifications should limit planned work in alignment with this requirement during project scope development.

**Priority 4:** Only used where painting is required for code compliance.

**Priority 5:** Most painting and wall/window covering replacement will fall into this priority. Due to the limited funding for this priority, courts should be encouraged to budget for recurring painting and wall covering replacement.

**Priority 6:** Only used to provide repairs/covering after the removal of managed but not abated hazardous materials.

## Flooring

The following priorities are applicable for Facility Modifications involving flooring when paid for by the Judicial Council. Notwithstanding the preceding, rule 10.810 of the California Rules of Court authorizes local courts to use their own operating funds for flooring projects. If a local court elects to utilize its own operating funds for flooring projects, then these priorities are not applicable since the costs are being paid for by the local court and will not be funded as a Facility Modification project pursuant to this policy.

**Priority 1:** Floor finishing done as part of a larger Priority 1 Facility Modification that would require flooring repairs/replacement to complete the repair with or without hazardous material. For example, if a water leak resulted in moldy carpeting, replacing the carpet to match the preexisting carpet would be included in the repair effort.

**Priority 2:** Only used for significant safety hazards, such as tripping hazards. Before flooring replacement is approved, repairs of the existing flooring should be attempted. Only when repairs are not practical or cost-efficient should total area flooring be replaced. Even then it should normally be limited to the room/area and not extended to the entire floor or department.

**Priority 3:** Use when excessive wear does not justify a Priority 2 Facility Modification but impacts the dignity of the court to a level that its correction will improve court operations and provide minimal maintenance standards; for example, repairs in public common areas and courtrooms where the wear/damage indicates a total lack of concern for basic maintenance standards. Priority 3 work should be limited to the minimum effort needed to address the immediate concern (single room versus whole floor).

**Priority 4:** Only used where flooring repairs/replacement is required for code compliance.

**Priority 5:** Most flooring replacement will fall into this priority. Due to the limited funding for this priority, courts should be encouraged to budget for normal life cycle flooring replacement.

**Priority 6:** Only used to provide repairs/replacement after the removal of managed but not abated hazardous materials.

## Americans with Disabilities Act Projects

The Judicial Council has the responsibility to make certain that all court buildings comply with the Americans with Disabilities Act (ADA). The priorities for ADA projects will be as follows:

**Priority 1:** ADA projects will not normally fall under this priority as this priority is generally intended to repair an existing condition that has become immediately or potentially critical in nature due to it being broken or damaged. (This priority is not intended to be an upgrade to an existing condition.)

**Priority 2:** Only used to mitigate a legal action or written claim, and only for the items noted in the written claim or legal action. Written claims should be submitted by the CEO. For example, if the written claim or legal action identifies no ADA-accessible bathrooms on the first floor, the focus will be on providing an accessible bathroom on the first floor and not throughout the building. If ADA compliance is part of the overall repair, then compliance must be followed for that specific repair. For example, if the Priority 2 Facility Modification is to replace a washroom lavatory and fixtures, that particular lavatory and associated fixtures, and its components, must be ADA compliant.

**Priority 3:** Use when there is an impact to the dignity of the court to a level that its correction will improve functionality, usability, and accessibility of court operations. Priority 3 work should be limited to the minimum effort needed to address the immediate concern. If ADA compliance is part of the overall repair, then compliance must be followed for that specific repair. For example, if the Priority 3 Facility Modification is to replace or add a break room cabinet, sink, or fixtures, that particular cabinet and associated fixtures, and its components, must be ADA compliant.

**Priority 4:** Most ADA work will fall under this priority. The following are examples: doors do not have closers or improperly pull weight, bathrooms are not compliant, ramps are needed, service counter heights are too high, and elevator operating panels are not compliant. These examples in existing buildings are not code violations in their current state; however, all of these conditions might have to be corrected if the building is modified.

**Priority 5:** ADA projects will not fall under this priority.

**Priority 6:** ADA projects will not fall under this priority.

## **Vandalism and Graffiti Mitigation**

The Judicial Council has the responsibility for damage that occurs to court facilities as a result of vandalism. Vandalism includes graffiti-related damage. The priority for Vandalism and Graffiti Mitigation will be established as follows:

**Priority 1:** These projects have immediate impact and are potentially critical in nature. Such conditions may include, but are not limited to, the following: major flooding, substantial damage to roofs or other structural building components, or hazardous material exposure.

**Priority 2:** Vandalism and Graffiti Mitigation can only be justified as a Priority 2 Facility Modification if it is described as vandalism in a public area that must be repaired immediately to prevent further deterioration of the building infrastructure. Public areas are generally described as building lobby areas, restrooms within free access areas, courtrooms, and corridors outside of courtrooms where the public congregates. Priority 2 Facility Modifications should be limited to the minimum effort needed to address the immediate concern.

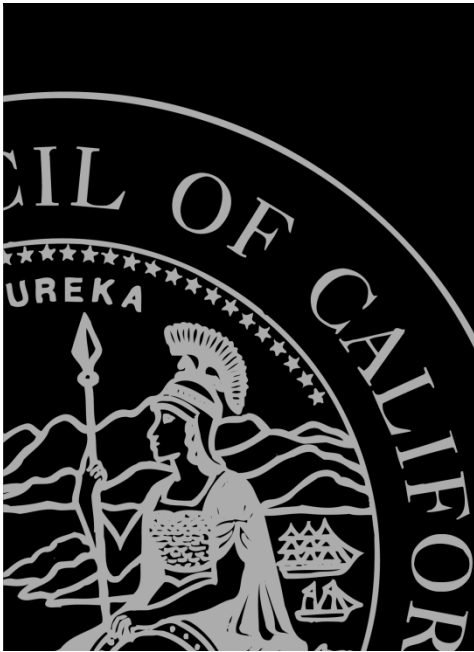
**Priority 3:** Use when there is an impact to the dignity of the court to a level that its correction will improve functionality, usability, and accessibility of court operations. Priority 3 work should be limited to the minimum effort needed to address the immediate concern.

**Priority 4:** Only used where Vandalism and Graffiti Mitigation is required for code compliance.

**Priority 5:** Vandalism and Graffiti Mitigation projects will not fall under this priority.

**Priority 6:** Vandalism and Graffiti Mitigation projects will not fall under this priority.





# Trial Court Facility Modifications Policy

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ADOPTED AND EFFECTIVE  
JULY 27, 2012



ADMINISTRATIVE OFFICE  
OF THE COURTS

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OFFICE OF COURT CONSTRUCTION  
AND MANAGEMENT

## **I. Purpose**

Government Code section 70391(h) requires the Judicial Council to allocate appropriated funds for the maintenance and construction of court facilities. Government Code section 70374(c)(1) authorizes the use of funds in the State Court Facilities Construction Fund for projects involving, among other things, rehabilitation, renovation, or replacement of court facilities. This document presents the methodology and process for identifying and prioritizing facility modifications (Facility Modifications) to be made to trial court facilities, the responsibility or title for which rests with the state.

This document replaces and supersedes the Judicial Council's *Prioritization Methodology for Modifications to Court Facilities*; last revised April 24, 2009 and, if approved, would become effective on July 27, 2012.

## **II. Definitions**

### **A. Facility Modification**

A Facility Modification is a physical modification to a facility or its components that restores or improves the designed level of function of a facility or facility components. A Facility Modification may consist of:

- A modification that alters or increases the designed level of services of a building;
- A “special improvement” meaning a one-time modification to a facility that is not expected to be repeated during the lifetime of the facility;
- An alteration, addition to, or betterment of a facility that changes its function, layout, capacity, or quality;
- A rehabilitation, which restores a facility to its former state or capacity;
- A renovation, which restores a facility to a former or better state, including by repairing or reconstructing facility components;
- A replacement, which puts a new facility component of the same or better quality or function, in the place of an existing facility component;
- The addition of new systems, equipment, or components to a facility that would not otherwise exist;
- A modification to a facility that is required to bring the facility into compliance with law, including but not limited to the Americans with Disabilities Act, title 24 of the California Code of Regulations, and federal and state hazardous materials laws and regulations;
- Any of the foregoing where a facility or its components are damaged, seriously deteriorated, dysfunctional, subject to intermittent service outage, or otherwise in insufficient operating condition as a result of

- deferred maintenance, emergency, acts of God, severe wind or weather conditions, vandalism, or criminal activity; and
- A correction of collateral damage arising from an emergency incident or unanticipated finding that is discovered during the performance of Facility Modification work.

A Facility Modification differs from routine maintenance and repair of a court facility, which is the routine, recurring, and generally anticipated work that must be performed periodically throughout the life of a facility to keep the building and its grounds, equipment, and utilities infrastructure in a condition adequate to support their designed level of service. Routine maintenance and repair includes annual or less frequent periodic repairs and replacements of building components and equipment consistent with manufacturers' recommendations or industry-recommended service cycles. While a Facility Modification may either restore or improve a facility's designed level of function, routine maintenance and repair always maintains, without materially improving, the facility and its components at their designed level of function. Routine maintenance and repair is the basic and ongoing work that is needed, as part of ordinary facility operation and management, to keep the facility and its components in a condition adequate to support existing facility operations and to prevent deterioration, break down, and service interruptions.

In some instances, it is difficult to distinguish between a Facility Modification, on the one hand, and routine maintenance and repair, on the other hand. Facility Modifications are distinguished from routine maintenance and repair based on the scope and complexity of the work to be performed, and the anticipated impact of the work on the ongoing operation of the facility. Factors to be considered in evaluating the scope, complexity, and impact of a project include:

- The amount of time and materials needed to complete the work;
- The number of steps involved in completing the project;
- The type and number of tools required to perform the work;
- The extent to which facility structures or equipment must be altered or moved to complete the project;
- Whether the facility component involved is a substantial part of a major facility system;
- Whether one or more facility systems will be disrupted or taken out of service as a result of the project; and
- Whether the project involves critical facility systems such as life safety or security equipment, HVAC equipment, utilities infrastructure, roofs and other structural components, or accessibility features (i.e., elevators, escalators, doors, parking lots and structures).

Projects of greater scope and complexity or with a more critical impact on the ongoing safe and secure operation of the court facility are more likely to be Facility Modifications; however, for projects that are more difficult to distinguish, case-by-case evaluation is required.

A Facility Modification differs from a capital project, which significantly increases the facility's gross area; substantially renovates the majority (more than 50 percent) of the facility; involves the construction of a new facility or a facility acquisition; or changes the use of the facility, as in a conversion from another use to court use.

## **B. Judicial Branch Facilities' Customer Service Center (CSC)**

The Judicial Branch Facilities' Customer Service Center, or CSC, is a, 24-hour service center established to receive, track, and control all work statewide related to court facilities. The center is managed by the Office of Court Construction and Management (OCCM), a division of the Administrative Office of the Courts (AOC), through its Real Estate and Asset Management Services' Facilities Management Unit. The CSC is the primary contact point for all Facility Modification requests and all maintenance services. The e-mail address is [csc@jud.ca.gov](mailto:csc@jud.ca.gov).

## **C. Facility Modification Budget Allocation Categories**

### **1. Statewide Facility Modifications Planning Allocation**

The Statewide Facility Modifications Planning Allocation is the portion of the Facility Modifications budget set aside by the Judicial Council for planning, investigations, and other activities related to the identification, solution analysis or development of Facility Modification requirements, estimates, and plans. This includes studies of issues that may eventually require Facility Modifications as well as full facility assessments used for long-range planning of the Facility Modification program. This budget does not include detailed construction design work, which is incorporated into the cost of each specific Facility Modification.

### **2. Priority 1 Facility Modifications Allocation**

The Priority 1 Facility Modifications Allocation is the portion of the Facility Modification budget set aside by the Judicial Council for performance of emergency Facility Modifications. Due to the unpredictable nature of these Facility Modifications funding must be set aside to ensure an adequate reserve to address any emergencies that may arise over the course of the Fiscal Year.

### **3. Planned Facility Modifications Allocation**

The Planned Facility Modifications Allocation is the portion of the Facility Modification budget set aside by the Judicial Council for Facility Modifications that the TCFMWG has fully vetted and recommended for funding at the beginning of the Fiscal Year and that are approved by the Judicial Council. Typically these Facility Modifications are considered to be among the highest

priority from those *not* funded in the previous year due to budget constraints. Funds remaining in this allocation after all Planned Facility Modifications have been completed can be reallocated by the among the other Facilities Modification Budget Categories. The Judicial Council will be advised of any such reallocations in the annual information report submitted after the close of each fiscal year. The report also will indicate if any Planned Facility Modifications approved by the council are cancelled.

#### **4. Priority 2-6 Facility Modifications Allocation**

The remainder of the Facility Modifications budget is set aside by the Judicial Council for Priority 2–6 Facility Modifications that were either not received prior to the beginning of the fiscal year or involved lower-priority work not yet fully vetted and estimated but eligible for funding during the current fiscal year depending on funds available and priority of the requested modification.

This budget allocation is spread over the course of the Fiscal Year by the TCFMWG to fund requests that are ad hoc or unplanned, but that rank among the highest priority Facility Modifications. The TCFMWG will determine at the beginning of the fiscal year the amount to be used at each of its meetings as part of a plan to stage the work over the course of the year. This will allow for funding decision at each meeting to ensure funds are spent appropriately and fully for the fiscal year. Based on this funding determination the AOC staff will present a proposed list of Facility Modification at each meeting. The TCFMWG will then approve or disapprove funding for each of the proposed Facility Modifications.

### **III. Priority Categories**

#### **Priority Categories for Facility Modifications**

Projects determined to be Facility Modifications will be assigned one of the six priority categories described below. These priority categories are based on methods commonly used by private sector facility management firms. Facility Modifications will be prioritized based on confirmation that the requested project qualifies as a Facility Modification under the criteria in section IIA above, as well as by priority category, specific justifications, effect on court operations, public and employee safety, risk management and mitigation, funding availability, equity among the courts, implementation feasibility, cost/benefit analysis, planning and design status, contribution to ADA compliance, and status of major capital improvements.

Facility Modifications determined to be Priority 1 will be addressed immediately and regardless of whether the court occupies a shared-use facility. Planned Priority 2–6

Facility Modifications requested for shared-use facilities will be assigned an appropriate priority category; their prioritization and implementation may be dependent, however, on financial participation by the county that shares the building.

Priority categories for Facility Modifications are as follows:

***Priority 1—Immediately or Potentially Critical.*** A Priority 1 ranking is appropriate where a condition of the facility requires immediate action to return the facility to normal operations or where a condition exists that will become critical if not corrected expeditiously. Such conditions necessitate a Facility Modification to prevent accelerated deterioration, damage, or dysfunction; to correct a safety hazard that imminently threatens loss of life or serious injury to the public or court employees; or to remedy intermittent function, service interruptions, or potential safety hazards. These conditions may include, but are not limited to, major flooding, substantial damage to roofs or other structural building components, or actual or imminent hazardous material release or exposure. Depending on scope, complexity, and impact, a severe deterioration in life safety or security components may also be considered a condition requiring a Priority 1 Facility Modification.

Owing to their critical nature, Priority 1 Facility Modification requests will be addressed immediately by AOC staff using internal procedures—including a method and a process for setting aside funds to address Priority 1 requests— that ensure timely and effective responses to unplanned damage, deterioration, or dysfunction resulting from an emergency or other potentially critical conditions.

***Priority 2—Necessary, But Not Yet Critical.*** A Priority 2 ranking is appropriate where a facility requires a modification to preclude deterioration, potential loss of function or service, or associated damage or higher costs if correction of a condition is further deferred.

***Priority 3—Needed.*** A Priority 3 ranking is appropriate where addressing a Facility Modification will reduce long-term maintenance or repair costs or improve the functionality, usability, and accessibility of a court facility. Such a condition is not hindering to the most basic functions of the facility, but its correction will improve court operations.

***Priority 4—Does Not Meet Current Codes or Standards.*** A Priority 4 ranking is appropriate where a facility or one or more of its components does not conform to current code requirements, despite having complied with all codes in place at the time of initial construction. Such conditions are considered *legally nonconforming*, and their modification to meet current code requirements is generally not required.

***Priority 5—Beyond Rated Life, But Serviceable.*** A Priority 5 ranking is appropriate where a facility is currently adequate to support court operations but, owing to some condition, cannot be expected to fully and properly function as designed for more than one year without the requested Facility Modification.

***Priority 6—Hazardous Materials, Managed But Not Abated.*** A Priority 6 ranking is appropriate for a Facility Modification where a facility contains hazardous materials, such as asbestos or lead-based paints, that are managed in place and not yet abated.

#### IV. Process for Requesting and Prioritizing Facility Modifications

##### **A. Requesting Facility Modifications**

Potential Facility Modifications will be identified by court and AOC personnel through requests made to the CSC. The AOC staff in collaboration with the local court staff will

- confirm that each requested project is a Facility Modification under the criteria set forth above in section II;
- assign a priority category to each request;
- resolve any questions and develop a preliminary cost estimate; and
- finalize the scope of the Facility Modification.

**1. Priority 1 Requests.** Owing to their critical nature, Priority 1 requests will be addressed immediately by AOC staff using internal procedures that ensure timely and effective responses to unplanned damage, deterioration, or dysfunction resulting from an emergency or other potentially critical conditions. AOC staff will report to the TCFMWG on all Priority 1 request as part of the next scheduled TCFMWG meeting.

**2. Priority 2–6 Requests.** Requests for Priority 2–6 Facility Modifications will be tracked by the AOC and the courts using the AOC’s Computer Aided Facility Management (CAFM) database. Each request will outline the problem to be addressed and state the impact if the problem is not addressed. Requests will be processed by CSC staff and tracked in CAFM.

##### **B. Prioritizing Requests for Priority 2–6 Facility Modifications**

The following criteria will be used in ranking of all noncritical Facility Modifications:

- priority category
- specific justifications, effect on court operations
- public and employee safety and security, and risk management
- funding availability
- equity among the courts
- implementation feasibility

- cost/benefit analysis
- design and plan status,
- contribution to ADA compliance
- planned major capital improvements

## **V. Trial Court Facility Modifications Working Group**

### **A. Trial Court Facility Modifications Working Group: Membership and Terms**

The Trial Court Facility Modifications Working Group (TCFMWG) has been established by the Judicial Council to review Facility Modification needs across the state. Judges or court executive officers from any California court who have knowledge of or interest in facilities management or construction are eligible to apply for membership. The TCFMWG consists of five judges selected by the Trial Court Presiding Judges Advisory Committee and three Court Executive Officers selected by the Court Executive Officers Advisory Committee. Members serve a three-year term, though terms may be extended at the discretion of the chair of the Court Facilities Working Group (CFWG). The chair and vice-chair of the TCFMWG are appointed from among the TCFMWG membership by the Chief Justice, with recommendations from the chair of the CFWG. AOC staff is responsible for notifying the pertinent selection committee when new members need to be appointed.

### **B. Trial Court Facility Modifications Working Group: Duties and Procedures**

The TCFMWG will meet as needed to review the AOC staff prepared reports, which will include a suggested ranked list of all proposed Facility Modifications with fully developed scopes of work and cost estimates as well as current funding availability. The total cost of all modifications on the draft ranked list may not exceed total available funding for the current fiscal year. Based on a review of the AOC reports and any other available information, the TCFMWG will determine which modifications to recommend for funding in the current fiscal year and which should be deferred for future consideration based on funding availability. The group may also determine that certain items do not qualify as Facility Modifications and remove them from the list of recommended projects.

### **C. Trial Court Facility Modifications Working Group: Annual Recommendation to the Judicial Council**

1. The Legislature appropriates funding to the annual Facility Modification budget (annual budget) out of the State Court Facilities Construction Fund and the Immediate and Critical Needs Account.
2. Based on the annual budget, the AOC staff to the TCFMWG will develop a proposed allocation among the four Facility Modification Budget Allocation Categories and a list of potential Planned Facility Modifications.



3. The TCFMWG will consider the AOC staff proposal and develop a recommended allocation among the four Facility Modification Budget Allocation Categories; Priority 1 Facility Modifications, Statewide Facility Modification Planning, Planned Facility Modifications, and Priority 2–6 Facility Modifications.
4. The TCFMWG will also use this AOC staff proposal to determine if there are high priority Facility Modifications that should be funded with the Planned Facility Modification allocation. A list of proposed Planned Facility Modifications, if any, will be developed, and will include the location, a short description, and estimated cost of each Planned Facility Modification. Based on the Annual Budget, the TCFMWG may recommend all funding be preserved for use on the highest priority Facility Modifications throughout the year and not recommend any Planned Facility Modifications.
5. The TCFMWG’s draft recommendations of the proposed funding allocation and the list of Planned Facility Modifications will be made available to the trial courts for comment by posting them on Serranus and emailing them to the Presiding Judges and the Court Executive Officers. The comments and the TCFMWG’s responses will be included with the final recommendations in a report to the CFWG.
6. Based upon comments received, the TCFMWG will determine its final recommended funding allocation and list of Planned Facility Modifications, which will be presented to the CFWG for review and approval. The CFWG may approve the TCFMWG recommendations in whole or it may revise the recommendations.

The CFWG will forward its recommended funding allocation and list of Planned Facility Modifications to E&P for placing on a Judicial Council business meeting agenda for the council’s consideration and approval or revision.

7. This policy, and the budget allocations and list of Planned Facility Modifications approved by the Judicial Council will be the basis on which the TCFMWG and the AOC in collaboration with the local courts will proceed to implement Facility Modifications.
8. During the fiscal year, justifiable reasons may arise for reallocating funds among the four Facility Modification budget allocations—Statewide Facility Modification Planning, Priority 1, Planned, and Priorities 2–6. Under this policy, the Judicial Council delegates to the TCFMWG the authority to redistribute funds among the four budget allocations as necessary to ensure that

the funds are used in the fiscal year and are used for the highest priority Facility Modifications, consistent with this policy and the criteria outline in section IV.B above. All reallocations will be reported to the council as part of the annual report on the activities of the TCFMWG.

9. The Judicial Council also delegates to the TCFMWG the authority to approved Priority 1 and 2 Facility Modifications between the beginning of the fiscal year and the Judicial Council's approval of the annual budget allocation and list of Planned Facility Modifications. This is necessary to ensure that emergency and necessary Facility Modifications that could impact court operations are not delayed. The TCFMWG will not expend more than 20% of the annual budget prior to the Judicial Council's approval.

**D. Trial Court Facility Modifications Working Group: Annual Informational Report**

The TCFMWG will develop an informational annual report summarizing its activities during the preceding fiscal year. Like the annual budget allocation recommendation, this report will be provided to the courts for comment in the same manner as the recommendations to the Judicial Council outlined above.

This report will be developed in the second quarter of the new fiscal year after all data is available and analyzed for the preceding year. This report will include data on actual expenditures, requests received, any backlog of work based on industry standard major facility systems, funding of modifications by priority, time required to complete each project, cancellation of any council-approved projects, redistribution of funding between categories, and other significant TCFMWG activities.

The CFWG will review this report and forward it to E&P for placing on a Judicial Council business meeting agenda as an informational item.

**E. Trial Court Facility Modifications Working Group: Quarterly Report to E&P**

The TCFMWG will develop a quarterly report to provide to E&P, which will also be provided to the Judicial Council at the next council meeting. The report will include a list of all Facility Modifications funded during the quarter, as well as any reallocation of fund between the funding categories. The first of these reports will be presented to E&P in October 2012 covering the first quarter of FY 2012-13.