UNDERSTANDING YOUR ANNUAL REIMBURSEMENT FROM THE ADMINISTRATIVE OFFICE OF THE COURTS

Frequently Asked Questions

Question 1: **Is there a Lease Agreement governing the Judicial Branch's occupancy of the court facility in my county?**

Answer 1: Only if there is current debt on your court facility. Lease agreements are required by banks to guarantee bond holders that the AOC will make payments on the debt service and are the mechanism by which capital projects for court facilities are applied against the state's debt capacity rather than the local government's. When there is no debt service on a court facility, the Judicial Branch's occupancy of the facility is governed by statute rather than lease agreement. See KRS 26A.090, KRS 26A.100, KRS 26A.107, KRS 26A.110, and KRS 26A.115.

Question 2: **Does the AOC pay rent for use of the court facility?**

Answer 2: No. Per statute, the AOC pays an "operating costs allowance" and "use allowance" for court facilities. Operating costs and use allowance are calculated according to statute. See KRS 26A.090 and the current Judicial Branch budget bill.

Question 3: **What are operating costs?**

Answer 3: There are two categories of operating costs: *regular operating costs* and *nonrecurring operating costs*.

Regular operating costs include the cost of utilities, janitorial services, insurance, preventative maintenance contracts. Regular operating costs also include the costs of maintenance/repair/upkeep expenses that are less than $2,500. These costs are estimated annually on the Annual Reimbursement Form and paid in advance in quarterly installments. Cable, phone, and internet services are **not** allowable as operating costs.

Nonrecurring operating costs are maintenance/repair/upkeep/improvement expenses or projects costing $2,500 or more. To be reimbursed for a nonrecurring operating cost, the local government must obtain approval of the AOC prior to incurring the cost. The AOC reimburses local governments for approved nonrecurring expenses/projects upon project completion and receipt of invoice and documentation demonstrating the amount paid.

Question 4: **What is use allowance?**

Answer 4: The calculation of use allowance differs depending on when the most recent construction or capital renovation project was authorized for the court facility.

For court facility projects authorized by the 2000 General Assembly or after, use allowance is calculated as the judicial branch's proportional share of the annual principal and interest in connection with the construction or renovation of the facility, not to exceed the maximum annual use allowance authorized by the General Assembly. Use allowance for these court facilities is paid directly by the AOC to the debt service. When the judicial branch occupies 100% of the court facility, the AOC pays for 100% of the costs of construction / renovation.

When there is no debt on a court facility authorized prior to the 2000 General Assembly, use allowance is calculated as the court's proportional share of 2% annually of capital costs. An additional 2% of capital costs is retained by the AOC for maintenance of court facilities state-wide.

When there is debt on a court facility authorized prior to the 2000 General Assembly, use allowance is calculated as the court's proportional share of the annual principal and interest cost in connection with the renovation or construction, but not to exceed 8% annually of capital costs.

Question 5: **What is included in each quarterly payment from the AOC?**

Answer 5: Estimated regular operating costs and, only if there is no debt on a court facility authorized prior to the 2000 General Assembly, use allowance.

Estimated regular operating costs are determined using historical data. If you are aware of changes that will affect annual operating costs for the next fiscal year (examples: increased insurance premiums, increased staff salaries, additional janitorial/maintenance positions, or a new preventative maintenance contract), please contact Donald Leathers to discuss the possibility of making adjustments to the estimate before signing the annual reimbursement form.

If the AOC leases property from the local government in addition to the primary court facility or court facilities, rent for those spaces is **not** included in the quarterly payments. These spaces are governed by lease agreements, and separate quarterly payments are made for rentals.

Question 6: **How must local units of government allocate the monies received from AOC in quarterly payments?**

Answer 6: Amounts received for estimate regular operating costs should be used for expenditures relating to the operation of the court facility, including: insurance premiums, utilities, janitorial services, preventative maintenance services, and minor repairs and upkeep costing less than $2,500. These expenditures should be coded by using Expenditure Code 5081.

If your local government receives a use allowance, there are no restrictions on how those funds may be used.

Question 7: **Why might the quarterly payment vary?**

Answer 7: Quarterly payments are based on ***estimates*** as identified in the Annual Reimbursement form. After the end of the fiscal year, the AOC Division of Audit Services audits local governments expenditures related to the court facility to determine the ***actual*** amount of regular operating costs for the year. If the estimated regular operating costs were less than the actual regular operating expenses, the difference will be added to the remaining quarterly payments for the current fiscal year to compensate the county for the additional expense in the previous fiscal year. If the estimated regular operating

costs were more than the actual regular operating expenses, the difference will be deducted from the remaining quarterly payment for the current fiscal year.

Question 8: **What janitorial services must the local unit of government provide for the court facility?**

Answer 8: Please see the janitorial performance standards in the Policies for the Operation and Maintenance of Court Facilities (pages 11-14) for a complete list of services required. Background checks are required for all employees or contractors providing janitorial services.

Question 9: **What regular maintenance must the local unit of government provide for the court facility?**

Answer 9: The local government is responsible for maintaining the facility, making repairs, and keeping the facility in good operating condition. This includes:

- Performing preventative maintenance on all equipment, systems, and components of the court facility, including the changing of wearable components, filters, lubrication, and cleaning; and
- Performing minor repairs of such equipment, systems, and components costing less than $2,500.

Security systems and phone/internet services related to KCOJ communications are maintained by the AOC.

Question 10: **Can the local government increase janitorial/maintenance staff salary or add additional janitorial/maintenance employees for the court facility, or enter into a new contract for janitorial/maintenance services for the court facility?**

Answer 10: Yes, with AOC approval. To ensure funds are available and allocated to operating costs for the court facility, please contact your assigned Facilities Coordinator prior to increasing staff salary, adding additional employees, or entering into new contracts. AOC approval of contracts is required prior to contract execution. AOC approval of background checks for new employees/contractors is required prior to allowing access to the court facility. For a complete list of all requirements for janitorial and maintenance services, please review the Policies for the Operation and Maintenance of Court Facilities.

Question 11: **What is the process for requesting a nonrecurring project for the court facility?**

Answer 11: Nonrecurring projects may be initiated by the local government upon recognizing a need for a repair, replacement, upgrade, or modification to the court facility that cost $2,500 or more, or they may be initiated by a local court official who makes a request to the local government or the AOC. See pages 26-30 of the Policies for the Operation and Maintenance of Court Facilities. The local government obtains a quote. If the quote is:

- Less than $2,500: the local government proceeds with the project using operating costs paid by the AOC in quarterly installments.

- $2,500-$4,999: the local government submits a *Work Order Request Form* to facilitiesrequest@kycourts.net.
- $5,000 or more: the local government follow its own procurement policies, either letting bids for the project or obtaining at least three quotes for the project (scope of work must be the same for all quotes), and submits a *Work Order Request Form* to facilitiesrequest@kycourts.net.

The AOC Department of Court Facilities approves or denies the project via written letter stating the maximum amount of reimbursement from AOC ("the AOC portion") and applicable time requirements. For mixed use facilities occupied by both the judicial branch and the local government:

- If the nonrecurring project benefits the facility as a whole (e.g. windows, roof, boiler, HVAC, structural issues, mechanical repair/replacement), the AOC portion is calculated based on the pro rata portion of the floor space that is occupied by the judicial branch in the facility.
- If the nonrecurring project benefits only the portion of the facility occupied by the judicial branch (e.g. moving a wall in a judicial suite, new carpet or paint in the circuit clerk's office), the AOC portion may include up to 100% of the costs.
- If the nonrecurring project benefits only the portion of the facility occupied by the local government (e.g. replacing windows, paint, or carpet in the county offices only), the AOC portion will be $0.

If the local government agrees to proceed with the project, the local government signs the letter, returns it to the AOC, and completes the project. At the conclusion of the project, the local government submits a reimbursement request, including invoices and proof of payment, to AOC. AOC reimburses the local government for the judicial branch's proportionate share of the costs of the project, as documented in the approval letter.

If the local government requests partial reimbursements throughout the project or if the amount of the AOC reimbursement is anticipated to be $100,000 or more, an MOU will be prepared by the AOC to be signed by the parties.

Question 12: **What happens when the debt service is paid on the court facility?**

Answer 12: The Public Properties Corporation must maintain an active status of good standing with the Secretary of State's office as long as there is debt on the property. When the debt service is paid, the court facility is deeded from the Public Properties Corporation to the local unit of government. The court of justice continues occupying the facility pursuant to KRS Chapter 26A and continues paying operating costs to the local government. If the project was authorized prior to 2000, the AOC pays use allowance to the local government in the amount of 2% of the capital costs.

Question 13: **What is the process for renovating the court facility or constructing a new court facility?**

Answer 13: The AOC regularly assesses court facilities and maintains a list of counties requiring court facility construction or renovation to meet the needs of the courts. See KRS

26A.160. Court facility renovation and construction projects are judicial branch capital construction projects that must be authorized by the General Assembly, completed in accordance with the Rules of Administrative Procedure of the Court of Justice Part X, and overseen by the AOC. The AOC includes a court facility project in the Capital Plan only after the local government has executed an MOU agreeing to proceed with the project. No steps can be taken in furtherance of a project until it has been authorized by the General Assembly and the Chief Justice has issued a notice to proceed.

Question 14: **Can the local government increase the amount of space it occupies in the court facility or move executive branch offices (e.g. the Commonwealth Attorney) into the facility?**

Answer 14: The local government must seek the approval of the chief circuit judge and the AOC Department of Court Facilities ***prior to*** changing the occupancy ratios in the court facility. In order to change a space assignment, a space audit would need to be completed by the Department of Court Facilities to document the proposed occupancy ratio, and, if there is debt on the facility, a sublease prepared. Changes in the occupancy ratio will result in changes in operating costs and use allowance. The AOC *only* pays for the portion of the facility occupied by the judicial branch (i.e. circuit courts, district courts, judge's offices, circuit court clerk's offices, court administrator's offices in Jefferson/Fayette, and statewide court programs including Pretrial, Court Designated Workers, and Specialty Courts).

Question 15: **What are court facilities fees?**

Answer 15: Court Facilities Fees are fees that may be assessed by a fiscal court and collected by the circuit court clerk on behalf of the county pursuant to KRS 23A.220, KRS 24A.185, and KRS 64.091.

- KRS 23A.220 requires Circuit Court filing fees assessed by the fiscal court to be used to pay expenses for courthouses, bonds related to them, and administration expenses of the Circuit Court.
- KRS 24A.185 requires District Court filing fees assessed by the fiscal court to be used to pay expenses for courthouses, bonds related to them, and administration expenses of the District Court.
- KRS 64.091 requires fees assessed by fiscal courts on subpoena and civil summons service by the local sheriff to be used for the purpose of paying expenses for courthouses, bonds related to them, and administration expenses of courthouses.

Court Facilities Fees should be receipted by using revenue code 4561 (Fiscal Court Filing Fees) and expended by using expenditure code 5081 (Judicial Center – AOC).

AOC does not audit expenditures of Court Facilities Fees, but receives the amount of Court Facilities Fees collected annually and information about how those funds were spent to assist the AOC Department of Court Facilities in making determinations about which nonrecurring projects it may be able to fund annually. Counties may be asked whether they have court facilities fees available to offset nonrecurring project costs.

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Frequently Asked Questions

Question 16: **How is my local government reimbursed for court security services?**

Answer 16: The executive branch Finance and Administration Cabinet, Office of the Controller, Division of Local Government Services reimburses sheriff's offices for transporting prisoners, attending a jury, and court security services. Please direct questions to 502-564-6879.