

Fiscal Year Funding and Cost Containment Initiatives

The Judiciary continues cost containment and prepares for sequestration



In a tight budget year, the Judicial Conference Budget Committee, along with many judges involved in congressional outreach, worked hard to present the case for the Judiciary's 2012 funding.

The Judiciary continues to build on cost-containment efforts begun in 2004. Over the last eight years, these cost-cutting initiatives have helped limit growth in the Judiciary's budget.

The Judiciary remains vigilant in efforts to cut costs and streamline court operations through the use of information technology and changes to business processes.

This commitment to containing costs and exploring new and better ways of conducting judicial business, has significantly reduced the Judiciary's appropriations requirements. In fact, the fiscal year 2013 budget request was the Judiciary's lowest requested increase ever.

The Judiciary's FY 2012 Funding

In December 2011, Congress passed the Consolidated Appropriations Act of 2012, which included the Financial Services and General Government bill funding the Judiciary.

Overall, the Judiciary received \$6.97 billion, about a 1 percent increase above the fiscal year 2011 enacted level. Administrative Office Director, Judge Thomas Hogan credited the efforts of the Judicial Conference Budget Committee, along with the many judges involved in the Judiciary's congressional outreach efforts, and Administrative Office (AO) staff.

The omnibus bill funded the courts' Salaries and Expenses account at \$5.02 billion, slightly above the fiscal year 2011 level, with full funding for the Defender Services, Court Security, and Fees of Jurors accounts based on revised requirements for those accounts.

While fiscal year 2012 funding levels were relatively positive, they follow two years of near-hard freezes in funding. Cost-containment initiatives undertaken by the Judiciary mitigated, in part, the potentially detrimental effect of those low funding levels. Courts were urged to continue cost-cutting efforts, as the likelihood of constrained funding loomed in fiscal year 2013. Meanwhile, the Judiciary communicated its resource needs and the impact of budget cuts on federal court operations to Congress.

Fiscal Year 2013 began without an enacted budget for the Judiciary. Focused on the November elections and possible sequestration, Congress passed a six-month continuing resolution (CR), and delayed final FY 2013 budget decisions until the end of March 2013.

Although the courts are operating at FY 2012 funding levels, which harms services and reduces staffing, the greatest threat to the Judiciary's ability to function effectively continues to come from sequestration.



As sequestration loomed, the Judiciary weighed its impact on the courts and service to the public.

The Judiciary and Sequestration

Throughout FY 2012, the threat of sequestration loomed over the federal Judiciary. On January 2, 2013, a provision of the Budget Control Act of 2011 would have reduced available

appropriations for government agencies, including the Judiciary, to 8.2 percent below the FY 2012 enacted level.

Following last hour negotiations, Congress agreed to delay action on these automatic budget cuts, or sequestration, until March 1, 2013.

It was estimated that sequestration might lead to the furlough or layoff of thousands of Judiciary staff, as individual courts took measures to control expenditures. The deep cuts could cause the suspension of panel attorney payments, the furlough of federal defender organization staff, the suspension of civil jury trials for six weeks, a 50 percent cut in funding for security systems and equipment, and no funding for 370 court security officers.

Chief Justice John Roberts, Jr. in his 2012 Year End Report on the Judiciary noted that the Judiciary has carefully managed its tiny portion of the federal budget, but warned that the Judiciary has pursued cost-containment so aggressively that further economies would affect the quality of judicial services.

“Virtually all of the Judiciary’s core functions are constitutionally and statutorily required,” the Chief Justice wrote. “Unlike executive branch agencies, the courts do not have discretionary programs they can eliminate or projects they can postpone. The courts must resolve all criminal and civil cases that fall within their jurisdiction, often under tight time constraints. A significant and prolonged shortfall in judicial funding would inevitably result in the delay or denial of justice for the people the courts serve.”

The negative impact of sequestration on the Judiciary was communicated to Congress. Meanwhile, in late 2012, the Executive Committee of the Judicial Conference approved a set of emergency measures to be implemented should the Judiciary’s funding become subject to sequestration.

Cost-Containment Initiatives Go Deep and Wide

Limit Rent Costs: One of the Judiciary’s biggest cost-containment successes has been in limiting growth in space rental costs. As a result of initiatives put in place in recent years, the fiscal year 2013 budget request for GSA rent reflects a cost avoidance of approximately \$400 million below estimates made prior to the start of Judiciary cost-containment initiatives.

Increase Oversight on Meeting Planning: Fiscal year 2012 saw a growing concern, both inside and outside the Judiciary, over the costs of certain conferences and meetings.

In May 2012, the Executive Committee, acting on behalf of the Judicial Conference, approved new policies and procedures on the planning and administration of meetings sponsored by courts and other judicial branch entities.

The policies, based, in large part, on policies and practices adopted by executive branch agencies, add new approval and disclosure requirements for meetings costing in excess of \$100,000 and \$500,000. Chief judges and court unit heads are required to exercise “oversight of

the meeting planning process through appropriate standards, guidance, limitations, and reporting requirements.” The policies also state that Judiciary entities should adopt internal controls and procedures that minimize conference costs, including administrative costs, conference attendees' travel costs, and attendees' travel time. In general, meetings should be scheduled in locations that are easily accessible, require few airline connections, and offer convenient and affordable ground transportation.

The AO has developed procedures to implement the new policies, including a system for reporting information upon the completion of an event and a process for requesting event pre-approval.



oluntary Sharing of Administrative Services: As part of the Judiciary’s efforts to contain costs in this difficult budget climate, both the Executive Committee and the Budget Committee of the Judicial Conference asked the Committee on Court Administration and Case Management (CACM) to work with other Conference committees to develop strategies and mechanisms for voluntarily sharing administrative services. Sharing administrative services has the potential to help courts address the impact of a budget unlikely to meet full requirements and establish a sustainable approach to what will most likely be an austere budget environment for many years.

This sharing initiative also dovetails with the Judicial Resources Committee’s development of new work measurement formulas. That Committee is in the process of including shared administrative services in the development of work measurement formulas. Finally, the CACM Committee has encouraged courts to adopt shared administrative services plans. Implementation of the plans presents opportunities for courts to increase expertise, effectiveness, and efficiency, and to be good stewards of the taxpayers’ money.

Relinquish Court Facilities: In September 2012, the Judicial Conference approved the relinquishment of court space in six federal facilities—part of a series of cost-cutting measures taken by the Judiciary with current and future budgetary constraints in mind. Consideration was given to the facilities’ usage, location, condition, and operating costs. None of the affected facilities have full-time resident judges and their closure will save the Judiciary approximately \$1 million a year in rent costs. The facilities are:

- Wilkesboro, North Carolina, upon completion of the renovation of the courthouse in Statesville, NC;

- Beaufort, South Carolina, at the end of the lease term in 2014;
- Meridian, Mississippi;
- Amarillo, Texas, upon the cancellation of the lease for the bankruptcy court space;
- Pikeville, Kentucky, releasing the bankruptcy courtroom and chamber in leased space; and
- Gadsden, Alabama.

Assess Library and Law Book Costs: Cost containment related to libraries and the expenditures for law books continues to be a priority. Following assessments by each circuit judicial council in 2011, two satellite libraries were closed and a significant reduction was made in the collection of a third. Early in 2012, another satellite library was closed. The assessments were recommended by the Court Administration and Case Management (CACM) Committee and endorsed by the Judicial Conference in response to the *2010 Report on Libraries and Library Services*.

In June 2012, the CACM Committee took additional steps, reducing the list of law books available for chambers, eliminating duplication through sharing, and encouraging the purchase of less-costly alternative titles when available. Constrained spending in each circuit and efforts to downsize law book collections have achieved more than \$20 million in savings over the past decade, including nearly \$4 million in FY 2012.

Cost-containment efforts will continue as law book funding is expected to decline significantly over the next several fiscal years and as the Judiciary looks at its libraries for potential further reductions in space rental costs.

Expand Review of Magistrate and Bankruptcy Judgeship Recalls: In September 2012, the Judicial Conference approved the recommendations of the Magistrate Judges Committee and the Bankruptcy Committee to amend the Judicial Conference regulations governing the recall of retired magistrate judges and bankruptcy judges. The amendments, which were effective October 1, 2012: establish specific workload standards for the approval of staff for recalled judges; and require the respective Committee's approval of staff for a recalled judge and funds for any recall that exceeds \$10,000 in judicial salary, travel, and other expenses. In addition, at its December 2011 meeting, the Magistrate Judges Committee recommended that the Committee on Judicial Resources consider eliminating the automatic funding allotted to clerks' offices for additional staff support for full-time recalled magistrate judges.

Establish Circuit CJA Case-Budgeting Attorneys: In its FY 2013 budget request to Congress, the Judiciary sought approval to use Defender Services funding to establish four new circuit Criminal Justice Act case-budgeting attorney (CBA) positions. CBAs have been found to reduce expenditures in high-cost cases while promoting a high-quality defense through enhanced management and accountability.

Seven circuits applied for the four CBA positions for which Congressional funding is sought in FY 2013.

Realign Resources and Reduce Expenditures for Probation and Pretrial Services: Citing budget constraints, the Judicial Conference Committee on Criminal Law urged probation and pretrial services offices to take steps to reduce resources devoted to less complex investigations and lower-risk supervision cases. They recommended that, where appropriate without compromising the needs of the court, officers reduce the scope of investigations. They also urged early termination of supervision of low-risk offenders who meet established criteria, selection of the most cost-effective location monitoring technology, and referral of persons under supervision to only those services that specifically target factors related to risk of recidivism.

An update to national policy clarified how officers should focus resources and supervision activities on higher-risk offenders. Built upon what criminological research refers to as the risk principle, these policies decrease recidivism by concentrating efforts on those offenders at greatest risk of offending. The AO continues to develop supervision policies and procedures that further refine risk-based supervision.

Explore Integrated Workplace Options: The evolution and increasing adoption of technology has broadened where and when work can be performed. The objective of the Integrated Workplace Initiative (IWI) is to capitalize on this new flexibility to reduce the Judiciary's real estate footprint, while creating a more efficient and effective work environment. The IWI examines court unit operations, analyzes changes in work styles, researches new and emerging technologies, identifies successful mobile work situations (i.e., probation officers working remotely in the field rather than in the courthouse), and develops workplace mobility strategies. Participating courts test mobility strategies using existing space occupied by district clerk offices and probation and pretrial services offices. A new chapter being developed for the *U.S. Courts Design Guide* will provide guidance and examples of alternative workplaces.

Refine the Work Measurement Process: The Judiciary is significantly improving the detail and accuracy of its work measurement process in the development of statistical staff-sizing formulas. Rather than relying exclusively on sampling, for the first time the work measurement process allows each court and employee to contribute relevant data. The ability to measure the workload of employees makes it possible to produce formulas differentiated according to court size. Significant economies of scale are noted as courts progress from smallest to largest, with a range of replacement formulas that leverage court investment in IT and training. The in-depth measurement process also provides detailed data on time spent per administrative activity category, allowing for potential efficiencies and savings through shared administrative activities among court units.

Introduce a Risk-Based Approach to Auditing: Refocusing the nature, timing and extent of audit procedures on areas of greatest risk would streamline the process and significantly reduce work in areas where risk is minimal. Audits in high-risk areas are more efficient and effective and assist management in identifying deficiencies in internal controls over key areas and processes.

[Expand Cost-Cutting Initiatives of the Bankruptcy Noticing Center:](#) Since 1994, the Bankruptcy Noticing Center (BNC) contract has saved the Judiciary more than \$100 million in postage, personnel, and equipment costs and the AO continues to collaborate with its Bankruptcy Noticing Working Group on BNC cost-saving initiatives.

The ongoing expansion of the Electronic Bankruptcy Noticing (EBN) program, which now accounts for more than one-third of all BNC notices, saved more than \$9 million in fiscal year 2012. Cost-cutting initiatives, including court assessments of local noticing practices, have further reduced spending. The centralized processing of returned mail for bankruptcy courts, implemented in 2012, is expected to reduce postage expenses by up to \$1.25 million per year. In addition, the expansion of EBN through use of Extensible Mark-up Language (XML) is expected to increase EBN participation, resulting in further savings. XML functionality will be included in Bankruptcy CM/ECF Release 5.1. All bankruptcy courts use the BNC for notice production and distribution, and over 142 million notices were transmitted in FY 2012.

Centralize Email Servers: The Judicial Conference Committee on Information Technology endorsed an initiative to centralize the Judiciary's primary email servers by 2014. This initiative is expected to avoid expenditures on the cyclical replacement of the current primary e-mail server hardware. To date, 37 e-mail servers have completed the centralization process. Another six e-mail servers are scheduled to begin the process shortly.

Cut Storage Costs with Records Management Revisions: In fiscal year 2012, the Judiciary continued to work closely with the National Archives and Records Administration (NARA) to implement revisions to the civil and bankruptcy records disposition schedules. Full implementation of the new records schedules will reduce the Judiciary's annual records storage costs by approximately \$3 million.

Approximately 90 percent of the civil records schedule implementation work is now complete, including preservation of approximately 110,000 cubic feet of permanent records and disposition of approximately 250,000 cubic feet of temporary records. In addition, the bankruptcy courts are nearing completion of their comprehensive review of historic designations, Chapter 12 cases, and historic adversary proceedings files. NARA has begun to preserve and transfer permanent bankruptcy cases as part of the Judiciary's implementation of the new bankruptcy records disposition schedule.

In July 2012, the Archivist of the United States signed the new appellate schedule, which the Judicial Conference approved in March. This will permit 22,000 cubic feet of permanent records to be immediately transferred from Federal Records Centers to NARA.

Implement AO Cost-Containment Initiatives: The AO continued to seek ways to work within a tight budget, reducing costs while maintaining a high level of support to the federal courts. In 2011, an internal AO Cost-Containment Task Force recommended measures to control costs and to help prepare the agency for future budget constraints. Recommendations capable of quick implementation with an immediate financial impact were put in place first. Many of the more complex recommendations were subsequently developed and are now being implemented. Reductions in travel, training, printing, publications, subscriptions, and mobile communications device costs implemented in FY 2012 will continue in FY 2013.

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