

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Salaries and Expenses

SUMMARY STATEMENT OF ACCOUNT REQUIREMENTS

	Mandatory	Discretionary	Total
Total Fiscal Year 2019 Assumed Appropriation	\$3,028,000	\$32,016,000	\$35,044,000
Total Fiscal Year 2020 Appropriation Request	\$3,042,000	\$32,983,000	\$36,025,000
Total Requested Increase from Fiscal Year 2019 Assumed Appropriation	\$14,000	\$967,000	\$981,000

APPROPRIATION LANGUAGE

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of officers and employees, and for necessary expenses of the court, as authorized by law, [~~\$32,016,000~~]*\$32,983,000*.

In addition, there are appropriated such sums as may be necessary under current law for the salaries of the chief judge and judges of the court.

(H.R. 6147 - Financial Services and General Government Appropriations Act, 2019, updated to reflect the judiciary's fiscal year 2019 assumed appropriation)

**SUMMARY OF REQUEST
COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES
FISCAL YEAR 2020
(Dollar amounts in thousands)**

<u>Page No.</u>	<u>Fiscal Year 2020 Resource Requirements:</u>	<u>Mandatory</u>		<u>Discretionary</u>		<u>Total</u>	
		<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
	Fiscal Year 2019 Assumed Obligations	12	3,028	140	33,468	152	36,496
	Utilization of Judiciary Information Technology Fund (including EPA) Balances.....		-		(1,452)		(1,452)
	Fiscal Year 2019 Assumed Appropriation	12	3,028	140	32,016	152	35,044
 <u>Adjustments to Base to Maintain Current Services:</u>							
A. Judges							
<i>Pay and benefits cost adjustments</i>							
2.8	1. Annualization of assumed 2019 pay adjustment (1.4% for three months).....	-	9	-	-	-	9
2.8	2. Benefits increases		-	-	-	-	-
2.8	a. Health benefits.....	-	2	-	-	-	2
2.8	b. FICA adjustment.....	-	3	-	-	-	3
 B. Court Support Personnel							
<i>Pay and benefits cost adjustments</i>							
2.9	3. Annualization of assumed 2019 pay adjustment (1.9% for three months).....	-	-	-	70	-	70
2.9	4. Promotions and within-grade increases.....	-	-	-	186	-	186
2.9	5. Benefits increases						
2.9	a. Health benefits.....	-	-	-	13	-	13
2.9	b. FICA adjustment.....	-	-	-	8	-	8
2.9	c. FERS adjustment.....	-	-	-	244	-	244
2.10	6. One more compensable day.....	-	-	-	67	-	67

**SUMMARY OF REQUEST
COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES
FISCAL YEAR 2020
(Dollar amounts in thousands)**

Page No.		<u>Mandatory</u>		<u>Discretionary</u>		<u>Total</u>	
		<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
	C. Other Adjustments						
	<i>General Inflationary Adjustments</i>						
2.10	7. Inflationary increases in charges for contracts, services, supplies and equipment.....	-	-	-	126	-	126
2.10	8. GSA space rental increase.....	-	-	-	233	-	233
2.10	9. Lawbooks and computer-assisted legal research (CALR).....	-	-	-	20	-	20
	Subtotal, Adjustments to Base to Maintain Current Services.....	-	14	-	967	-	981
	Total Current Services Appropriation Required.....	12	3,042	140	32,983	152	36,025
	 Total Fiscal Year 2020 Appropriation Required.....	12	3,042	140	32,983	152	36,025
	 Total Appropriation Increase, Fiscal Year 2019 to Fiscal Year 2020.....	-	14	-	967	-	981
	<u>Financing the Fiscal Year 2020 Request:</u>						
	Total Appropriation Required, Fiscal Year 2020.....	12	3,042	140	32,983	152	36,025
2.10	10. Utilization of Electronic Public Access Receipts and Judiciary Information Technology Fund.....	-	-	-	370	-	370
	Total Estimated Obligations, Fiscal Year 2020.....	12	3,042	140	33,353	152	36,395

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES
Obligations by Activity (\$000)

Activity	Fiscal Year 2018 Actual	Fiscal Year 2019 Assumed Obligations/ Appropriation	Fiscal Year 2020 Request
Salaries and Expenses, Total Obligations	34,188	36,496	36,395
Unobligated Balance, Start of the Year			
Judiciary Information Technology Fund	(4,586)	(5,349)	(3,947)
Electronic Public Access Deposit	(77)		
Prior year recoveries	(5)		
New Deposit	(1,125)		
Unobligated Balance, End of the Year			
Judiciary Information Technology Fund	5,349	3,947	3,627
Total Direct Obligations	33,744	35,094	36,075
Unobligated Balance, Expiring	634		
Less offsets from:			
Electronic Public Access	(77)	(50)	(50)
Expense Reimbursement from Patent & Trade Office	(12)		
Appropriation Required (Direct) - Total	34,289	35,044	36,025
Appropriation Required - Mandatory	2,998	3,028	3,042
Appropriation Required - Discretionary	31,291	32,016	32,983

Obligations by Budget Object Class (\$000)

Description	Fiscal Year 2018 Actual	Fiscal Year 2019 Assumed Obligations	Fiscal Year 2020 Request
11 Personnel compensation	16,643	17,902	18,224
12 Personnel benefits	3,923	4,146	4,426
13 Benefits for former personnel	14	14	15
21 Travel	81	102	115
22 Transportation of things	21	24	26
23 Rent, communications and utilities			
<i>Rental payments to GSA</i>	6,116	6,282	6,515
<i>Communications utilities & misc. charges</i>	167	175	182
24 Printing and reproduction	13	15	17
25 Other services	5,194	6,081	6,127
26 Supplies and materials	113	120	127
31 Equipment	701	1,635	621
91 Undefined Disbursements ¹	1,202	0	0
Total obligations²	34,188	36,496	36,395

1/ EPA collections deposited into JITF fund

2/ Includes JITF obligations of \$443,726 in FY 2018, \$1,452,000 in FY 2019, and \$370,000 in FY 2020.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
Salaries & Expenses
Relation of Obligations to Outlays (\$000)

	FY 2018 Actual	FY 2019 Assumed Obligations	FY 2020 Request	Difference (+) or (-)
Obligations incurred, net	34,188	36,496	36,395	(101)
Obligated balance, start of year	5,739	6,065	6,474	409
Adjustments of prior year activity	(152)	0	0	0
Obligated balance, end of year	<u>(6,065)</u>	<u>(6,474)</u>	<u>(6,457)</u>	<u>17</u>
Total Outlays	33,710	36,087	36,412	325
Less Judiciary Information Technology Fund Obligations	<u>(444)</u>	<u>(1,452)</u>	<u>(370)</u>	<u>1,082</u>
Net Outlays	33,266	34,635	36,042	1,407

Personnel Summary

	FY 2018 Actual	FY 2019 Assumed FTE	FY 2020 Request	Difference (+) or (-)
Total compensable workyears: Full-time equivalent employment	145	152	152	0

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

Summary of Mandatory Costs

	Fiscal Year 2019		Fiscal Year 2020		Increase (\$000)
	No. of Judgeships	Compensation and Benefits (\$000)	No. of Judgeships	Compensation and Benefits (\$000)	
Article III Judges	12	3,028	12	3,042	14

GENERAL STATEMENT AND INFORMATION

The United States Court of Appeals for the Federal Circuit, located in Washington, D.C., has nationwide jurisdiction over a large number of diverse subject areas, such as appeals in all patent cases, all government contract cases, all international trade cases, government personnel cases, cases involving monetary claims against the United States under the Tucker Acts, veterans' benefits cases, and many others.

Appeals to the court come from all 94 federal district courts, the United States Court of Federal Claims, the United States Court of International Trade, and the United States Court of Appeals for Veterans Claims. The court also takes appeals of certain administrative agencies' decisions, including the United States Merit Systems Protection Board, the Boards of Contract Appeals, the Patent Trial and Appeal Board, and the Trademark Trial and Appeal Board. Decisions of the United States International Trade Commission, the Office of Compliance, an independent agency in the Legislative Branch, and the Government Accountability Office Personnel Appeals Board also are reviewed by the court. For additional information on the court's jurisdiction, see the appendix beginning on page 2.12.

The fiscal year (FY) 2020 request for the United States Court of Appeals for the Federal Circuit totals \$36,025,000 to support the operations of the Court at a current services level. The request includes \$3,042,000 in mandatory appropriations and \$32,983,000 in discretionary appropriations.

FISCAL YEAR 2019 APPROPRIATIONS ASSUMPTION

In the absence of enacted full year FY 2019 appropriations, the judiciary made funding assumptions in order to construct a FY 2020 budget request. The judiciary built the FY 2020 budget request for the Court of Appeals for the Federal Circuit assuming the FY 2019 House and Senate mark as an estimate for the final FY 2019 appropriations. This amount would fund all FY 2019 requirements.

For bill language, the judiciary used the language from H.R. 6147, the House-passed FY 2019 Financial Services and General Government appropriations act, updated with the assumed funding level as described above, as the closest approximation of eventual enacted FY 2019 appropriations language.

After full year FY 2019 appropriations are enacted, the judiciary will re-estimate its FY 2020 budget request and transmit to the Appropriations Committees any changes to FY 2020 appropriations requirements and language.

Justification of Changes

The FY 2020 request for the Court of Appeals for the Federal Circuit totals \$36,025,000. This request includes \$3,042,000 for mandatory expenses and \$32,983,000 for discretionary expenses. The discretionary request includes \$967,000 in necessary adjustments to base to maintain current services and no program additions. The discretionary request of \$32,983,000 is a 3.0 percent increase from the FY 2019 assumed discretionary appropriation of \$32,016,000.

Adjustments to base to maintain current services include funds for the following: increased salaries and benefits costs for judges and current staff as well as increased costs for basic and required operating activities such as rent, postage, printing, office supplies, security, and computer-assisted legal research services.

The Court requests no program increases in this budget request.

ADJUSTMENTS TO BASE TO MAINTAIN CURRENT SERVICES

A. JUDGES

1. Annualization of assumed 2019 pay adjustment Mandatory Increase: \$9,000

The requested increase provides for the annualized costs of an assumed 2019 pay adjustment associated with the Employment Cost Index (ECI). Based on the FY 2019 appropriations action to date, federal pay rates for judges are assumed to increase by

1.4 percent, effective as of January 2019. The requested increase provides for the cost of three months (from October 2019 to December 2019) of the assumed 2019 pay increase in FY 2020. (If Congress ultimately does not enact a 2019 pay adjustment for federal civilian workers, or if one is provided at a rate different than 1.4 percent for ECI, the judiciary will revise this line item in its FY 2020 budget re-estimate.)

2. Benefits increase

a. Health benefits

Mandatory Increase: \$2,000

Based on information from the Office of Personnel Management, health benefit premium contributions are projected to increase by an average of 1.2 percent both in January 2019 and January 2020. The requested increase annualizes the 2019 premium increase, and includes a nine-month provision for the increase anticipated for FY 2020.

b. FICA adjustment

Mandatory Increase: \$3,000

Based on information from the Social Security Administration, employer contributions to the Old Age, Survivor, and Disability Insurance (OASDI) portion of the FICA tax will increase in 2019. The salary cap for OASDI increased from \$128,400 to \$132,900 in January 2019. The requested amount is needed to pay the Court's contribution in FY 2020.

B. PERSONNEL

Pay and Benefit Adjustments

3. Annualization of assumed 2019 pay adjustment

Requested Increase: \$70,000

The requested increase provides for the annualized costs of an assumed 2019 pay adjustment for Employment Cost Index (ECI) and locality pay. Based on the FY 2019 appropriations action to date, federal pay rates are assumed to increase by an average of 1.9 percent, effective as of January 2019. The requested increase provides for the cost of three months (from October 2019 to December 2019) of the assumed 2019 pay increase in FY 2020. (If Congress ultimately does not enact a 2019 pay adjustment for federal civilian workers, or if one is provided at a rate different than 1.9 percent, the judiciary will revise this line item in its FY 2020 budget re-estimate.)

4. Promotions and within-grade increases

Requested Increase: \$186,000

The requested increase provides for promotions and within-grade increases for personnel. The salary plan for judicial support personnel provides for periodic within-grade increases for staff who receive at least a satisfactory performance rating.

5. Benefits increases

a. Health benefits

Requested Increase: \$13,000

Based on information from the Office of Personnel Management, health benefit premium contributions are projected to increase by an average of 1.2 percent both in January 2019 and January 2020. The requested increase annualizes the 2019 premium increase, and includes a nine-month provision for the increase anticipated for FY 2020.

b. FICA adjustment

Requested Increase: \$8,000

Based on information from the Social Security Administration, employer contributions to the Old Age, Survivor, and Disability Insurance (OASDI) portion of the FICA tax will increase in 2019. The salary cap for OASDI increased from \$128,400 to \$132,900 in January 2019. The requested amount is needed to pay the agency contribution in FY 2020.

c. FERS adjustment

Requested Increase: \$244,000

Consistent with guidance from the Office of Management and Budget, funds are requested for an increase in the agency contribution rate to Federal Employee Retirement System (FERS) plans for FY 2020. For most employees, the agency contribution rate will increase from 13.7 percent to 16.0

percent. Any FERS increase is in accordance with revised estimates of the cost of providing benefits by the Board of Actuaries of the Civil Service Retirement and Disability System.

6. One more compensable day

Requested Increase: \$67,000

There is one more compensable day in FY 2020 than in FY 2019. The requested amount increases personnel compensation and benefits associated with one more compensable day for biweekly paid employees.

C. OTHER ADJUSTMENTS

General Inflationary Adjustments

7. Inflationary increases in charges for contracts, services, supplies, and equipment

Requested Increase: \$126,000

Consistent with guidance from the Office of Management and Budget, this request of \$126,000 is required to fund inflationary increases of 2.0 percent for operating expenses such as travel, communications, printing, contractual services, supplies and materials, and furniture and equipment.

8. Inflationary increase in GSA space rental costs

Requested Increase: \$233,000

This request represents a 3.47 percent inflationary increase and

adjustments in the cost of GSA space rental charges for space for FY 2020.

9. Lawbooks and computer-assisted legal research (CALR)

Requested Increase: \$20,000

An adjustment of \$11,000 is requested to fund an estimated 4.0 percent increase in the costs of library services, including law book accessions and continuations, and an adjustment of \$9,000 is requested to fund an estimated 4.0 percent increase in the costs of computer-assisted legal research resources.

FINANCING THE FISCAL YEAR 2020 REQUEST

10. Utilization of Electronic Public Access Receipts and Judiciary Information Technology Fund

Estimated obligation of available balances from Judiciary Information Technology Fund and Electronic Public Access Receipts: \$370,000

At the beginning of FY 2020, the court estimates that \$3,947,000 of its funds will remain in the Judiciary Information Technology Fund. This amount will be supplemented by an additional \$50,000 from FY 2020 Electronic Public Access receipts to total \$3,997,000.

The court anticipates obligating \$370,000 from EPA and the Judiciary Information Technology Fund in FY 2020. This figure reflects all required cyclical replacements and other

automation needs based on the current understanding of financial obligations the Court will incur in order to maintain the Federal Circuit's connectivity to national judiciary IT programs. Funds will be used to perform the required cyclical replacements of laptops, printers, multifunction units, scanners, tablets, and smart phones. The court will also procure miscellaneous automation supplies, such as cabling and essential software and cloud services, along with their related maintenance and security. Funds will be used to procure supplemental contractor Subject Matter Experts to assist IT staff with various IT projects and initiatives such as Office 365, Cloud services, Security and SharePoint.

APPENDIX

The following is a more complete listing of the Federal Circuit's jurisdiction. It hears appeals from:

- (A)** final decisions of all Federal District Courts in cases arising under 28 U.S.C. § 1338(a) relating to patent laws generally; 35 U.S.C. §§ 145-146 relating to review of decisions of the Patent and Trademark Office, Patent Trial and Appeal Board; 28 U.S.C. § 1346(a)(2) relating to Little Tucker Act claims against the United States; and section 211 of the Economic Stabilization Act of 1970, section 5 of the Emergency Petroleum Allocation Act of 1973, section 506 (c) of the Natural Gas Policy Act of 1978, and section 523 of the Energy Policy and Conservation Act relating to all statutes formerly under the jurisdiction of the Temporary Emergency Court of Appeals;
- (B)** final decisions of the United States Court of International Trade, 28 U.S.C. § 2645(c);
- (C)** final decisions of the United States Court of Appeals for Veterans Claims, 38 U.S.C. § 7292;
- (D)** final decisions of the United States Court of Federal Claims, 28 U.S.C. § 2522 and 42 U.S.C. §§ 300aa - 12(f);
- (E)** final decisions of the High Court of the Trust Territory of the Pacific Islands, 48 U.S.C. § 1901, note and § 1931, note (1988) (Compact of Free Association; Federated States of Micronesia, Republic of Marshall Islands, TITLE II, Title One, Article VII, § 174(c));
- (F)** final determinations of the United States International Trade Commission relating to unfair practices in import trade made under 19 U.S.C. § 1337;
- (G)** findings of the Secretary of Commerce under U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States relating to importation of educational or scientific instruments and apparatus;

- (H)** final orders or decisions of the Merit Systems Protection Board and certain arbitrators, 5 U.S.C. § 7703;
- (I)** final decisions of the General Accounting Office Personnel Appeals Board, 31 U.S.C. § 755;
- (J)** final decisions of Boards of Contract Appeals, 41 U.S.C. § 7107(a)(1);
- (K)** final decisions of the Patent and Trademark Office tribunals on patent applications, trademark applications and interferences, cancellations, concurrent use proceedings, and oppositions, 35 U.S.C. § 141 and 15 U.S.C. § 1071;
- (L)** appeals under section 71 of the Plant Variety Protection Act of 1970, 7 U.S.C. § 2461;
- (M)** certain actions of the Secretary of Veterans Affairs, 38 U.S.C. § 502;
- (N)** decisions of the Bureau of Justice Assistance, 42 U.S.C. § 3796c-2;
- (O)** certain actions of the Board of Directors of the Office of Compliance of the U.S. Congress under 2 U.S.C. § 1407(a); and
- (P)** final decisions of certain agencies pursuant to 28 U.S.C. § 1296.

Pursuant to 28 U.S.C. § 1292(c), the Federal Circuit also has exclusive jurisdiction regarding:

- a. appealable interlocutory orders or decrees in cases where the court would otherwise have jurisdiction over an appeal; and
- b. appeals from judgments in civil actions for patent infringement otherwise appealable to the court and final except for accounting.

Under the provisions of 28 U.S.C. § 1292(d), the court:

- a. has exclusive jurisdiction of appeals from interlocutory orders granting or denying, in whole or in part, a motion to transfer an action to the Court of Federal Claims; and
- b. may, in its discretion, permit an appeal from an interlocutory order of a judge who certifies that there is a controlling question of law and a substantial ground for difference of opinion thereon, and that an immediate appeal may materially advance the ultimate termination of the litigation.