

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Salaries and Expenses

SUMMARY STATEMENT OF ACCOUNT REQUIREMENTS

	Mandatory	Discretionary	Total
Total Fiscal Year 2020 Enacted Appropriation	\$3,120,000	\$32,700,000	\$35,820,000
Total Fiscal Year 2021 Appropriation Request	\$3,168,000	\$34,023,000	\$37,191,000
Total Requested Increase from Fiscal Year 2020 Enacted Appropriation	\$48,000	\$1,323,000	\$1,371,000

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, [~~\$32,700,000~~]*\$34,023,000*.

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.

(P.L. 116-93 Financial Services and General Government Appropriations Act, 2020)

**SUMMARY OF REQUEST
COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES
FISCAL YEAR 2021
(Dollar amounts in thousands)**

<u>Page No.</u>	<u>Fiscal Year 2021 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 2020 Obligations.....	12	3,120	140	34,509	152	37,629
	Utilization of Judiciary Information Technology Fund (including EPA) Balances.....		-		(1,809)		(1,809)
	Fiscal Year 2020 Enacted Appropriation.....	12	3,120	140	32,700	152	35,820
<u>Adjustments to Base to Maintain Current Services:</u>							
A. Judges							
<i>Pay and benefits adjustments</i>							
2.9	1. Proposed 2021 pay adjustment (1.0% for nine months).....	-	23	-	-	-	23
2.9	2. Annualization of 2020 pay adjustment (2.6% for three months).....	-	18	-	-	-	18
2.9	3. Benefits increases						
2.9	a. Health benefits.....	-	3	-	-	-	3
2.10	b. FICA adjustment.....	-	4	-	-	-	4
B. Court Support Personnel							
<i>Pay and benefits adjustments</i>							
2.10	4. Proposed 2021 pay adjustment (1.0% for nine months).....	-	-	-	133	-	133
2.10	5. Annualization of 2020 pay adjustment (3.1% for three months).....	-	-	-	138	-	138
2.10	6. Promotions and within-grade increases.....	-	-	-	187	-	187
2.10	7. Benefits increases						
2.10	a. Health benefits.....	-	-	-	25	-	25
2.10	b. FICA adjustment.....	-	-	-	21	-	21
2.11	c. FERS adjustment.....	-	-	-	140	-	140
2.11	8. One less compensable day.....	-	-	-	(71)	-	(71)

**SUMMARY OF REQUEST
COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES
FISCAL YEAR 2021
(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>						
2.11	9. Inflationary increases in charges for contracts, services, supplies and equipment.....	-	-	-	129	-	129
2.11	10. Inflationary increase and adjustments in GSA space rental costs.....	-	-	-	847	-	847
2.11	11. Lawbooks and computer-assisted legal research (CALR).....	-	-	-	24	-	24
2.12	12. Reduction of base requirements.....	-	-	-	(250)	-	(250)
	Subtotal, Adjustments to Base to Maintain Current Services.....	-	48	-	1,323	-	1,371
	Total Current Services Appropriation Required.....	12	3,168	140	34,023	152	37,191
	 Total Fiscal Year 2021 Appropriation Required.....	12	3,168	140	34,023	152	37,191
	 Total Appropriation Increase, Fiscal Year 2020 to Fiscal Year 2021.....	-	48	-	1,323	-	1,371
	 <u>Financing the Fiscal Year 2021 Request:</u>						
	Total Appropriation Required, Fiscal Year 2021.....	12	3,168	140	34,023	152	37,191
2.12	13. Utilization of Electronic Public Access Receipts and Judiciary Information Technology Fund.....	-	-	-	407	-	407
	Total Estimated Obligations, Fiscal Year 2021.....	12	3,168	140	34,430	152	37,598

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
SALARIES AND EXPENSES**

Obligations by Activity (\$000)

Activity	FY 2019 Actual	FY 2020 Estimate	FY 2021 Request
Total Obligations	34,798	37,629	37,598
Unobligated Balance, Start of Year:			
Judiciary Information Technology Fund	(5,349)	(4,568)	(2,810)
Deposits and Other Adjustments:			
Judiciary Information Technology Fund	(800)		
PACER Receipts	(50)	(51)	(52)
Unobligated Balance, End of Year:			
Judiciary Information Technology Fund	4,568	2,810	2,455
<i>Subtotal, Other Obligations</i>	<i>(1,631)</i>	<i>(1,809)</i>	<i>(407)</i>
Direct Obligations	33,167	35,820	37,191
Transfer to Fees of Jurors and Commissioners Account	1,000	-	-
Unobligated Balance, End of Year	940	-	-
Offsetting Collections (EPA)	(50)	-	-
Appropriation Total	35,057	35,820	37,191
Appropriation - Mandatory	3,041	3,120	3,168
Appropriation - Discretionary	32,016	32,700	34,023

Obligations by Budget Object Class (\$000)

Description	FY 2019 Actual	FY 2020 Estimate	FY 2021 Request
11 Personnel compensation	16,963	18,987	19,426
12 Personnel benefits	4,024	4,567	4,750
13 Benefits for former personnel	0	10	12
21 Travel	103	110	115
22 Transportation of things	37	40	45
23 Rent, communications and utilities			
<i>Rental payments to GSA</i>	6,146	6,402	7,249
<i>Communications utilities & misc. charges</i>	159	165	175
24 Printing and reproduction	0	10	10
25 Other services	4,166	4,799	4,663
26 Supplies and materials	106	110	115
31 Equipment	613	620	631
91 Undefined Disbursements (JITF Deposit)	850	0	0
Direct Obligations	33,167	35,820	37,191
Other Obligations (JITF Obligations)	1,631	1,809	407
Total Obligations	34,798	37,629	37,598

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

	FY 2019 Actual	FY 2020 Estimate	FY 2021 Request
Direct obligations incurred	33,167	35,820	37,191
Obligated balance, start of year	6,065	6,046	6,530
Adjustments of prior year activity	238	257	267
Obligated balance, end of year	<u>(6,046)</u>	<u>(6,530)</u>	<u>(6,780)</u>
Total Outlays	33,424	35,593	37,208
Less Offsets	<u>(63)</u>	<u>(63)</u>	<u>(63)</u>
Net Outlays	33,361	35,530	37,145

Personnel Summary

	FY 2019 Actual	FY 2020 Estimate	FY 2021 Request
Total compensable workyears:			
Full-time equivalent employment	145	152	152

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT				
SALARIES AND EXPENSES				
Summary of Mandatory Costs				
	Fiscal Year 2020		Fiscal Year 2021	
	No. of Judgeships	Compensation and Benefits (\$000)	No. of Judgeships	Compensation and Benefits (\$000)
Article III Judges	12	3,120	12	3,168

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 2.13.

Court Recognized for Outstanding Training Program and Excellence in Court Operations

The United States Court of Appeals for the Federal Circuit recently received national recognition among federal agencies for conceiving, developing, and executing a new and highly innovative training program. In October 2019, Graduate School USA awarded the Clerk's Office of the Federal Circuit the 2019 W. Edwards Deming Outstanding Training Award in the area of Human Capital Management. Following a year of development, testing, and refinement, the Clerk's Office created a new training program for case managers – front line technicians who facilitate the progression of cases throughout their lifecycles at the court – using a gradual, cumulative training model that starts with big-picture concepts of why various office processes exist and ends with an evaluation of the work performed in actual cases.

Throughout the training, new case managers are provided with objective standards and clear understanding of how they will be evaluated to determine their mastery at each stage of training. The program's methodically designed balance of self-study, hands-on and experiential learning, and classroom-style instruction shattered previously accepted axioms about required training time. Case managers at the Federal Circuit now independently manage a full caseload after four months of training instead of 12 to 16 months, and their accuracy rates are 14 percent higher than their predecessors trained using the previous method. Results like these are critical

given the relatively high rate of turnover in entry-level positions such as case manager. Finally, employee satisfaction for training is 10 percent higher than it was under the previous method.

Notably, this marks the first time a judiciary organization has won this prestigious government-wide award. The Clerk's Office also received the Administrative Office Director's Award for Excellence in Court Operations in 2018 for management innovation within the judiciary. These awards highlight the court leadership team's persistent focus on constantly improving business operations and maximizing the effective use of resources.

In the wake of the court's 2018 AO Director's Award recognition, which was based on some preliminary work related to the Clerk's Office 2019 Deming Award win, the court's Chief Deputy Clerk and Operations Manager were invited to deliver a best practices-type presentation at the Federal Court Clerks Association annual meeting in August of 2019. The presentation met with rave reviews and multiple follow on requests for additional information. To date, 10 federal courts have reached out for assistance implementing training programs like the one developed by the Federal Circuit's Clerk's Office and the court intends to provide on-site assistance to as many of these courts requesting it as possible. The court is also in the process of creating the first of what it hopes will be several instructional webcasts describing how other courts in the judiciary can begin analyzing their processes using major principles the Federal Circuit employed so that those courts can create similar programs tailored to their individual, specific needs. Finally, the Federal Circuit is working with the Federal Judicial Center to create a high production value "how to" video that will be available judiciary wide.

In sum, though it has been professionally rewarding for the Federal Circuit to receive recognition for programs it implemented, it is thrilling and energizing beyond description to witness the enthusiasm with which judiciary colleagues across the third branch have eagerly sought to take the court's ideas to new levels in their own organizations in the interest of making the best use of the resources entrusted to judiciary shared stewardship. The Clerk's Office strives to be a model organization for the judiciary as well as for federal agencies in general.

FISCAL YEAR 2020 APPROPRIATIONS

The judiciary built the fiscal year (FY) 2021 discretionary budget request for the U.S. Court of Appeals for the Federal Circuit on the FY 2020 enacted appropriation, which is \$32,700,000. This amount maintains current services in FY 2020.

JUSTIFICATION OF CHANGES

The FY 2021 request for the Court of Appeals for the Federal Circuit totals \$37,191,000. This request includes \$3,168,000 for mandatory expenses and \$34,023,000 for discretionary expenses. The discretionary request includes \$1,323,000 in adjustments to base necessary to maintain current services. The discretionary request of \$34,023,000 is a 4.0 percent increase from the FY 2020 enacted discretionary appropriation of \$32,700,000.

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 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. Proposed 2021 pay adjustment

Mandatory Increase: \$23,000

The judiciary is assuming federal pay rates will increase by 1.0 percent in January 2021. The requested increase provides for the cost of nine months of the anticipated pay raise in FY 2021, from January 2021 to September 2021. (If the pay adjustment

included in the President's FY 2021 budget request is different from this 1.0 percent guidance, the judiciary will revise this line item in its FY 2021 budget re-estimate.)

2. Annualization of 2020 pay adjustment

Mandatory Increase: \$18,000

The requested increase provides for the annualized costs of the 2020 pay adjustment associated with the Employment Cost Index (ECI). Based on the enacted FY 2020 appropriation bill, federal pay rates for judges increased by 2.6 percent, effective as of January 2020. The requested increase provides for the cost of three months (from October 2020 to December 2020) of the enacted 2020 pay increase in FY 2021.

3. Benefits increase

a. Health benefits

Mandatory Increase: \$3,000

Based on information from the Office of Personnel Management, agency health benefit premium contributions are projected to increase by an average of 3.2 percent both in January 2020 and January 2021. The requested increase annualizes the 2020 premium increase and includes a nine-month provision for an estimated 3.2 percent increase anticipated for FY 2021.

b. FICA adjustment

Mandatory Increase: \$4,000

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 2020. The salary cap for OASDI increased from \$132,900 to \$137,700 in January 2020. The requested amount is needed to pay the agency's contribution in FY 2021.

B. PERSONNEL

Pay and Benefit Adjustments

4. Proposed 2021 pay adjustment

Requested Increase: \$133,000

The judiciary is assuming federal pay rates will increase by 1.0 percent in January 2021. The requested increase provides for the cost of nine months of the anticipated pay raise in FY 2021, from January 2021 to September 2021. (If the pay adjustment included in the President's FY 2021 budget request is different from this 1.0 percent guidance, the judiciary will revise this line item in its FY 2021 budget re-estimate.)

5. Annualization of 2020 pay adjustment

Requested Increase: \$138,000

The requested increase provides for the annualized costs of the 2020 pay adjustment for ECI and locality pay. Based on the

FY 2020 enacted appropriation bill, federal pay rates increased by an average of 3.1 percent, effective as of January 2020. The requested increase provides for the cost of three months (from October 2020 to December 2020) of the enacted 2020 pay increase in FY 2021.

6. Promotions and within-grade increases

Requested Increase: \$187,000

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.

7. Benefits increases

a. Health benefits

Requested Increase: \$25,000

Based on information from the Office of Personnel Management, agency health benefit premium contributions are projected to increase by an average of 3.2 percent both in January 2020 and January 2021. The requested increase annualizes the 2020 premium increase and includes a nine-month provision for an estimated 3.2 percent increase anticipated for FY 2021.

b. FICA adjustment

Requested Increase: \$21,000

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 2020. The salary cap for OASDI increased from \$132,900 to \$137,700 in January 2020. The requested amount is needed to pay the agency contribution in FY 2021.

c. FERS adjustment

Requested Increase: \$140,000

Consistent with guidance from the Office of Management and Budget, funds are requested for an increase in the agency contribution rate to Federal Employees Retirement System (FERS) plans for FY 2021. For most employees, the agency contribution rate will increase from 16.0 percent to 17.3 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.

8. One less compensable day

Requested Decrease: (\$71,000)

There is one less compensable day in FY 2021 than in FY 2020. The requested amount decreases personnel compensation and benefits associated with one less compensable day for biweekly paid employees.

C. OTHER ADJUSTMENTS

General Inflationary Adjustments

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

Requested Increase: \$129,000

Consistent with guidance from the Office of Management and Budget, the requested increase is required to fund inflationary adjustments of 2.0 percent for operating expenses such as travel, communications, printing, contractual services, supplies and materials, and furniture and equipment.

10. Inflationary increase and adjustments in GSA space rental costs

Requested Increase: \$847,000

This request of \$847,000 represents an inflationary increase and adjustments in the cost of GSA space rental charges for space occupied by the court for FY 2021 based on a rent estimate provided by GSA as well as adjustments to occupancy agreements for leased space.

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

Requested Increase: \$24,000

An adjustment of \$14,000 is requested to fund an estimated 5.0 percent increase in the costs of library services, including law

book accessions and continuations, and an adjustment of \$10,000 is requested to fund an estimated 4.0 percent increase in the costs of computer-assisted legal research resources.

12. Reduction of base requirements

Requested Decrease: (\$250,000)

The court requests a voluntary reduction of \$250,000 in its base appropriation in FY 2021. This reduction is in part a result of conscientious cost-containment efforts as well as salary and benefits savings resulting from the appointment of a number of new employees at significantly lower salaries than their predecessors had received.

FINANCING THE FISCAL YEAR 2021 REQUEST

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

Estimated obligation of available balance from Judiciary Information Technology Fund and Electronic Public Access Receipts: \$407,000

The court anticipates obligating \$52,000 of Electronic Public Access Receipts in FY 2021. These funds will be used for various expenditures to improve electronic access to court information and services for the public.

The court also anticipates obligating \$355,000 from the Judiciary Information Technology Fund in FY 2021. This figure reflects all required cyclical replacements (including the cyclical replacement of the court's voice over internet protocol

(VOIP) phones which will be at the end of their life in FY 2021) and other automation needs based on the estimated requirements to maintain the court's connectivity to national judiciary IT programs.

In addition, funds will be used to procure supplemental contractor subject matter experts to assist IT staff with various IT projects and initiatives such as a cybersecurity specialist contractor in support of the court's ongoing cybersecurity initiatives, including the remediation of IT security vulnerabilities and other proactive IT security measures designed to enhance the court's cybersecurity posture. The court also intends to procure supplemental contractor services to work with the court's IT staff on cloud migration strategies and initiatives for data migration, email, and backup solutions in a cloud hosted infrastructure environment.

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 and 154(b) 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)** certain 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, among other things, 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.