

September 2008

FEDERAL PENSIONS

Judicial Survivors' Annuities System Costs





Highlights of [GAO-08-1104](#), a report to congressional committees

Why GAO Did This Study

The Judicial Survivors' Annuities System (JSAS) was created in 1956 to provide financial security for the families of deceased federal judges. It provides benefits to eligible spouses and dependent children of judges who elect coverage within 6 months of taking office, 6 months after getting married, 6 months after being elevated to a higher court, or during an open season authorized by statute. Active and senior judges currently contribute 2.2 percent of their salaries to JSAS, and retired judges contribute 3.5 percent of their retirement salaries to JSAS.

Pursuant to the Federal Courts Administration Act of 1992 (Pub. L. No. 102-572), GAO is required to review JSAS costs every 3 years and determine whether the judges' contributions fund at least 50 percent of the plan's costs during the 3-year period. If the contributions fund less than 50 percent of these costs, GAO is to determine what adjustments to the contribution rates would be needed to achieve the 50 percent ratio.

What GAO Recommends

GAO is not making any recommendations in this report. The Administrative Office of the United States Courts (AOUSC) believes that GAO should be recommending a reduction in the judges' rate. GAO disagrees with AOUSC's interpretation of the act's requirements.

To view the full product, including the scope and methodology, click on [GAO-08-1104](#). For more information, contact Steven J. Sebastian, (202) 512-3406 sebastians@gao.gov, Joseph A. Applebaum, (202) 512-6336, applebaumj@gao.gov.

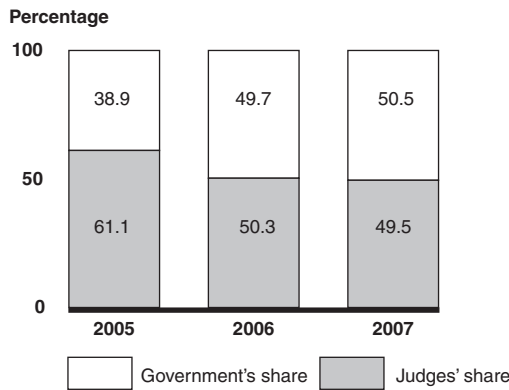
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What GAO Found

For the 2005 to 2007 time frame covered by this review, the participating judges funded approximately 54 percent of JSAS costs, and the federal government funded 46 percent. The increase in the government's contribution rate over the 3-year period was a result of increases in costs. The increase in costs reflected the combined effects of changes in actuarial assumptions; lower-than-expected rates of return on plan assets; demographic changes such as retirement, death, disability, new members, and pay increases; as well as an increase in plan benefit obligations.

Judges' and Federal Share of Costs



Source: JSAS actuarial valuation reports 2005-2007.

GAO determined that an adjustment to the judges' contribution rate was not needed because their average contribution share for the 3-year period exceeded the 50 percent minimum contribution goal specified by law. GAO examined the annual share of normal costs covered by judges' contributions over a 9-year period and found that, on average, the participating judges funded approximately 60 percent of JSAS's costs.

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Abbreviations

AOUSC	Administrative Office of the United States Courts
COLA	cost of living adjustment
CSRS	Civil Service Retirement System
FERS	Federal Employees' Retirement System
JSAS	Judicial Survivors' Annuities System

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United States Government Accountability Office
Washington, DC 20548

September 17, 2008

The Honorable Patrick J. Leahy
Chairman
The Honorable Arlen Specter
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable John Conyers, Jr.
Chairman
The Honorable Lamar Smith
Ranking Member
Committee on the Judiciary
House of Representatives

This report was prepared in response to the Federal Courts Administration Act of 1992,¹ which requires that we review certain aspects of the Judicial Survivors' Annuities System (JSAS). JSAS is a voluntary plan, and it is the only survivor benefit plan available to Article III² judges and certain non-Article III judges.³ JSAS provides annuities to surviving spouses and dependent children of (1) deceased Supreme Court justices, (2) deceased judges of the United States, and (3) other deceased judicial officials⁴ who participated in JSAS.

The 1992 Act enhanced the benefits available from JSAS and reduced the amounts that participating judges were required to contribute toward the plan's costs. The act requires us to review JSAS costs every 3 years and to determine whether the judges' contributions fund at least 50 percent of the

¹Pub. L. No. 102-572, 106 Stat. 4506 (Oct. 29, 1992).

²This refers to judicial positions defined under Article III of the U.S. Constitution which establishes the judicial branch as one of the three separate and distinct branches of the federal government. The other two are the legislative and executive branches.

³Non-Article III judges are judges of the U.S. territories, bankruptcy and magistrate judges, and judges of the U.S. Court of Federal Claims.

⁴As noted in appendix I, virtually all of those eligible to participate in JSAS are judges. For simplicity, we will refer to the collective group of judicial participants as "judges" throughout this report.

plan's costs. If the contributions fund less than 50 percent of these costs, we are to determine what adjustments to the contribution rates would be needed to achieve the 50 percent ratio.

The judicial system has determined that JSAS costs are the same as normal cost; for this review, we have examined the normal cost rates of the plan. The plan's actuary, using the plan's funding method—in this case, the aggregate cost method⁵—determines the plan's normal cost rate and the normal cost for each plan year. The normal cost rate is the level percentage of future salaries that will be sufficient, along with investment earnings and the plan's assets, to pay the plan's benefits. The normal cost for a plan year is the normal cost rate multiplied by the participants' salaries for that year. This is our fifth report since the passage of the 1992 Act.⁶

Objectives, Scope, and Methodology

Our objectives were to determine whether participating judges' contributions for the 3 plan years ending on September 30, 2007, funded at least 50 percent of the JSAS costs and, if not, what adjustments in the contribution rates would be needed to achieve the 50 percent ratio. To satisfy our objectives, we used the normal cost rates determined by actuarial valuations of the system for each of the 3 fiscal years. We also examined participants' contributions, the federal government's contribution, and other relevant information in each plan years' JSAS actuarial valuation report. An independent accounting firm hired by the Administrative Office of the United States Courts (AOUSC) audited the JSAS financial and actuarial information included in the JSAS actuarial valuation reports, with input from the plan's actuary regarding relevant data, such as the actuarial present value of accumulated plan benefits. The plan's actuary certified those amounts that are included in the JSAS actuarial valuation reports. We discussed the contents of the JSAS actuarial valuation reports with officials from AOUSC for the 3 plan years (2005 through 2007).

⁵The aggregate cost method is essentially the spreading of any unfunded present value of future benefits as a level percentage of the future payroll.

⁶GAO, *Federal Pensions: Judicial Survivors' Annuities System Costs*, [GAO-05-955](#) (Washington, D.C.: September 16, 2005); GAO, *Federal Pensions: Judicial Survivors' Annuities System Costs*, [GAO-02-763](#) (Washington, D.C.: June 26, 2002); *Federal Pensions: Judicial Survivors' Annuities System Costs*, [GAO/GGD-00-125](#) (Washington, D.C.: May 25, 2000); and *Federal Pensions: Judicial Survivors' Annuities System Costs and Benefit Levels*, [GAO/GGD-97-87](#) (Washington, D.C.: June 27, 1997).

In addition, we discussed with the plan's actuary the actuarial assumptions made to project future benefits of the plan. We noted that the JSAS actuarial valuation for plan years 2005 through 2007 used a 0.0 percent salary increase per year, above inflation, in contrast to the September 30, 2007, Civil Service Retirement and Disability System valuation which used a 0.75 percent salary increase per year, above inflation. We determined that the use of 0.0 percent salary increase for the JSAS is reasonable, and consistent with a recent trend analysis we performed on judicial pay plans.⁷ We also reviewed the qualifications of the plan's actuary who prepared the JSAS actuarial valuation reports for plan years 2005 to 2007 and nothing came to our attention that would lead us to question the qualifications of the actuary. We did not independently audit the JSAS actuarial valuation reports or the actuarially calculated cost figures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We performed our review in Washington, D.C., from June 2008 through August 2008. We made a draft of this report available to the Director of AOUSC for review and comment.

Results in Brief

For the 3 years covered by our review, the participating judges' contributions funded about 54 percent of JSAS normal costs—slightly more than 61 percent and 50 percent of JSAS normal costs during the plan years 2005 and 2006, respectively and slightly less than 50 percent during plan year 2007. The federal government's share of JSAS normal costs over the 3-year period amounted to, on average, approximately 46 percent. While the judges' contribution rate remained fixed at 2.2 percent and 3.5 percent of salaries for active participants and retired judges, respectively, the federal government contribution rate increased from 1.48 percent of salaries in plan year 2005, to 2.5 percent of salaries in plan year 2006, and to 2.59 percent of salaries in plan year 2007.

⁷GAO, *Human Capital: Trends in Executive and Judicial Pay*, [GAO-06-708](#) (Washington, D.C.: June 2006).

The increase in the federal government's contribution rate was the result of increases in JSAS normal costs. The increase in normal costs resulted from several combined factors, such as changes in the actuarial assumptions; lower than expected returns on plan assets; demographic changes such as retirement, death, disability, new members, and pay increases; as well as an increase in plan benefit obligations.

We determined that no adjustment to the judges' contribution rate was needed because the judges' average contribution share for the statutorily designated 3 year period was approximately 54 percent, which exceeded the 50 percent contribution goal specified by law. From plan year 1999 through plan year 2007, the proportion of normal costs funded by judges' contributions has averaged approximately 60 percent.

In commenting on a draft of this report, the AOUSC raised the issue of parity between the participating judges and the federal government with respect to funding of JSAS. It also noted that we did not propose a reduction in the contribution rates of judges given that their share of JSAS costs for the 3-year period covered by this report exceeded 50 percent of the total normal costs of the program. We disagree with AOUSC's view as to the purpose of section 201 (i) of the Federal Courts Administration Act of 1992.⁸ Since enactment, we have interpreted this section as providing a minimum percentage of the costs of the program to be borne by its participants because the statute requires us to recommend adjustments when the judges' contributions have not achieved 50 percent of the costs of the fund.

Background

Depending on the circumstances, judicial participants may be eligible for some combination of five retirement plans, including the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). Three other separate retirement plans, described in appendix I, apply to various groups of judges in the federal judiciary, with JSAS being available to participants in all three retirement plans to provide annuities to their surviving spouses and children.

⁸Section 201 (i) says: "the Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials...during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors' Annuities fund and if not, then what adjustments in the contribution rates...should be made to achieve that 50 percent figure." *See 28 U.S.C. §376 (w)*.

History of JSAS

JSAS was created in 1956 to help provide financial security for the families of deceased federal judges. It provides benefits to surviving eligible spouses and dependent children of judges who participate in the plan. Judges may elect coverage within 6 months of taking office, 6 months after getting married, if they were not married when they took office, 6 months after being elevated to a higher court, or during an open season authorized by statute. Active and senior judges⁹ currently contribute 2.2 percent of their salaries to JSAS, and retired judges contribute 3.5 percent of their retirement salaries to JSAS. Upon a judge's death, the surviving spouse is to receive an annual annuity that equals 1.5 percent of the judge's average annual salary during the 3 highest consecutive paid years (commonly known as the high-3) times the judge's years of creditable service. The annuity may not exceed 50 percent of the high-3 and is guaranteed to be no less than 25 percent. Separately, an unmarried dependent child under age 18, or 22 if a full-time student, receives a survivor annuity that is equal to 10 percent of the judge's high-3 or 20 percent of the judges' high-3 divided by the number of eligible children, whichever is smaller. JSAS annuitants receive an annual adjustment in their annuities at the same time, and by the same percentage, as any cost-of-living adjustment (COLA) received by CSRS annuitants. Spouses and children are also eligible for Social Security survivor benefits.

Since its inception in 1956, JSAS has been amended several times. Because of concern that too few judges were participating in the plan, Congress made broad reforms effective in 1986 with the Judicial Improvements Act of 1985.¹⁰ The 1985 act (1) increased the annuity formula for surviving spouses from 1.25 percent to the current 1.5 percent of the high-3 for each year of creditable service and (2) changed the provisions for surviving child benefits to relate benefit amounts to judges' high-3 rather than the specific dollar amounts provided in 1976 by the Judicial Survivors' Annuities Reform Act.¹¹ In recognition of the significant benefit improvements that were made, the 1985 act increased the amounts that judges were required to contribute from 4.5 percent to 5 percent of their salaries, including retirement salaries.

⁹Article III judges, who are eligible to retire but continue to hear cases on a full or part-time basis, are referred to as senior judges.

¹⁰Pub. L. No. 99-336, 100 Stat. 633 (June 19, 1986).

¹¹Pub. L. No. 94-554, 90 Stat. 2603 (Oct. 19, 1976).

The 1985 act also changed the requirements for government contributions to the plan. Under the 1976 Judicial Survivors' Annuities Reform Act, the government matched the judges' contributions of 4.5 percent of salaries and retirement salaries. The 1985 act modified this by specifying that the government would contribute the amounts necessary to fund any remaining cost over the future lifetime of current participants. That amount is limited to 9 percent of total covered salary each year.

In response to concerns that required contributions of 5 percent may have created a disincentive to participate, Congress enacted the Federal Courts Administration Act of 1992. Under this act, participants' contribution requirements were reduced to 2.2 percent of salaries for active and senior judges and 3.5 percent of retirement salaries for retired judges. The 1992 act also significantly increased benefits for survivors of retired judges. This increase was accomplished by including years spent in retirement in the calculation of creditable service and the high-3 salary averages.¹² Additionally, the 1992 act allowed judges to stop contributing to the plan if they ceased to be married and granted benefits to survivors of any judge who died in the interim between leaving office and the commencement of a deferred annuity.¹³

As of September 30, 2007, there were 1,303 active and senior judges, 223 retired judges, and 333 survivor annuitants covered under JSAS, according to the JSAS actuarial valuation report for plan year 2007.

Calculation of Federal Share

JSAS is financed by judges' contributions and direct appropriations in an amount estimated to be sufficient to fund the future benefits paid to survivors of current and deceased participants.¹⁴ The plan's actuary, using the plan's funding method—in this case, the aggregate cost method—determines the plan's normal cost rate and the normal costs for each plan year. The normal cost rate is the level percentage of future salaries that will be sufficient, along with investment earnings and the plan's assets, to pay the plan's benefits for current participants and beneficiaries. Normal cost calculations are estimates and require that many actuarial

¹²The 1992 Act changes include senior judges and judges who resign from their offices.

¹³A judge who is not entitled to receive an immediate annuity upon leaving office, but who is eligible to receive a deferred annuity at a later date, may—upon written notification—remain in JSAS by contributing a sum equal to 3.5 percent of the deferred annuity.

¹⁴JSAS investments are made only in U.S. Treasury securities.

assumptions be made about the future, including, but not limited to mortality rates, turnover rates, and returns on investment, salary increases, and COLA increases over the life spans of current participants and beneficiaries. There are many acceptable actuarial methods for calculating normal cost. Regardless of which cost method is chosen, the expected total long-term cost of the plan should be the same; however, year-to-year costs may differ, depending on the cost method used. The expected annual federal, actuarially recommended contribution is the product of the federal government's contribution rate and the participating judges' salaries. However, the actual federal government contribution is approved through annual appropriations which have varied, both above and below the actuarially recommended amount.

To determine the actuarially recommended annual contribution of the federal government, AOUSC, which is responsible for the administration of the JSAS, engages an enrolled actuary¹⁵ to perform the calculation of funding needed based on the difference between the present value of the expected future benefit payments to participants and the present value of net assets in the plan. Appendix II provides more details on the methodology used to determine the federal government's contribution rate and lump sum payments.

Portion of JSAS Cost Covered by Judges' Contributions Varied

For JSAS plan years 2005 through 2007, the participating judges contributed, on average, about 54 percent of the plan's costs. In plan years 2005 and 2006, participating judges paid slightly more than 61 percent and 50 percent of JSAS normal costs, respectively, and in plan year 2007, they paid slightly less than 50 percent of JSAS normal costs.

Table 1 shows the judges' and the federal government's contribution rates and shares of JSAS' normal costs (using the aggregate cost method, which is discussed in appendix II) for the period covered in our review.

¹⁵An enrolled actuary is an individual who has been licensed by the Joint Board for the Enrollment of Actuaries to perform a variety of actuarial tasks that the Employee Retirement Income Security Act of 1974 mandates for private sector defined benefit pension plans in the United States.

Table 1: Percentage Share of JSAS Normal Costs Borne by Participating Judges and the Federal Government, Plan Years 2005 to 2007

Source of contributions	JSAS normal cost rates and shares						2005-2007 Average share ^c
	2005		2006		2007		
	Rate ^a	Share ^b	Rate ^a	Share ^b	Rate ^a	Share ^b	
Judges	2.32	61.1	2.53	50.3	2.54	49.5	53.6
Government	1.48	38.9	2.50	49.7	2.59	50.5	46.4
Total normal costs	3.80	100.0	5.03	100.0	5.13	100.0	100.0

Source: JSAS actuarial valuation reports, 2005-2007.

^aNormal cost expressed as a percentage of the present value of participant's future salaries.

^bPercentage of total normal cost.

^cThis represents the average of the annual share of JSAS normal costs.

The judges' and the federal government's contribution rates for each of the 3 years shown in Table 1 were based on the actuarial valuations that occurred at the end of the prior year. For example, the judges' contribution rate of 2.32 percent and the federal government's contribution rate of 1.48 in plan year 2005 were based on the September 30, 2004, valuation contained in the plan year 2005 JSAS report.

The total normal costs expressed as a percentage of the present value of participant's future salaries shown in table 1 increased from 3.8 percent in plan year 2005 to 5.13 percent in plan year 2007. The judges' share of the JSAS normal costs decreased from approximately 61 percent in plan year 2005, to approximately 50 percent in plan years 2006 and 2007. The federal government's share of JSAS normal costs increased, from approximately 39 percent in plan year 2005, to approximately 50 percent in plan years 2006 and 2007. During those same years, the government's contribution rates increased from 1.48 percent of salaries in plan year 2005 to 2.5 percent of salaries in plan year 2006, and then to 2.59 percent in plan year 2007. The increase in the federal government's contribution rates was a result of the increase in normal costs resulting from several combined factors, such as changes in actuarial assumptions; lower-than-expected investment experience on plan assets; demographic changes—retirement, death, disability, new members, pay increases; as well as an increase in plan benefit obligations. However, the majority of the increase in the federal government's contribution rate is because of changes in actuarial assumptions and a lesser degree the government's contributing less than the actuarially recommended amounts, in plan years 2005, 2006, and 2007.

No Adjustment Required to Contribution Rates

Based on our review of the judges' contribution rates for the JSAS, we determined that there was no need for any adjustments in the judges' contribution rate. JSAS actuarial reports for the 3 years under review show that participating judges' contributed at least 50 percent of JSAS normal costs as required by the Federal Courts Administration Act for plan years 2005 and 2006, and slightly below half for plan year 2007. As shown in Table 1 above, the judges' average contribution for JSAS normal costs for this review period was approximately 54 percent, which exceeded the 50 percent contribution goal for judges.

Table 2 provides a summary of the percentage share of contribution for judges and the federal government over the past 9 years.

Table 2: Percentage Share of Contribution for Judges and the Federal Government

Plan year	1999	2000	2001	2002	2003	2004	2005	2006	2007	Average share ^a
Aggregate normal costs ^b	3.92	5.04	5.07	3.66	2.97	3.00	3.80	5.03	5.13	100.0
Government's contribution rate ^b	1.50	2.60	2.60	1.34	.65	.68	1.48	2.50	2.59	—
Judges' contribution rate ^b	2.42	2.44	2.47	2.32	2.32	2.32	2.32	2.53	2.54	—
Judges' share ^c	61.7	48.4	48.7	63.4	78.0	77.3	61.1	50.3	49.5	59.8
Government's share ^c	38.3	51.6	51.3	36.6	22.0	22.7	38.9	49.7	50.5	40.2

Source: JSAS actuarial valuation reports, 1999-2007.

^aThis represents the average of the annual share of JSAS normal costs.

^bNormal cost expressed as a percentage of the present value of participant's future salaries.

^cPercentage of total normal cost.

As shown above, the judges' contribution share, in any given year, may vary from the 50 percent contribution goal, either exceeding or not meeting this goal. The judges' average contribution share for the 9-year period was approximately 60 percent. Therefore, there is no reason to modify the judges' contribution rates at this time.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Director of AOUSC or his designee. In a letter dated September 10, 2008, the Director provided written comments on the report, which we have reprinted in appendix III. AOUSC also provided technical comments, which we have incorporated as appropriate.

In its comments, AOUSC stated that our report showed that for a third consecutive triennial cycle, judges have paid a greater share of the cost of this system. AOUSC stated that our report showed that over the past 9 years, judges' contributions have funded approximately 60 percent of the costs of JSAS. In AOUSC's view, we did not present in our report the downward adjustment that would be needed to the participating judges' contribution rates to attain the 50 percent level, and this omission is not consistent with Congress's intent in enacting the Federal Courts Administration Act of 1992.

We disagree with AOUSC's view as to the purpose of section 201(i), of the Act. Since enactment, we have interpreted this section as providing a minimum percentage of the costs of the program to be borne by its participants because the statute requires us to recommend adjustments when the judges' contributions have not achieved 50 percent of the costs of the fund. We do not view the section as calling for parity between the participants and the federal government with respect to funding the program. For the 3-years covered by this review, we determined and reported that judges' contributions represented approximately 54 percent of the normal costs of JSAS, and therefore, an adjustment to the judges' contribution rates was not needed under the existing legislation because the judges' contribution achieved 50 percent of JSAS costs. We have consistently applied this interpretation of the Act's requirements in all of our previously mandated reviews.

However, if one were to interpret the Act as calling for an equal sharing of the program's cost between participants and the government, then, on the basis of the information contained in the JSAS actuarial reports over the last 9 years, participating judges' future contributions would have to decrease a total of 0.32 percentage points below the current 2.2 percent of salaries for active judges and senior judges and 3.5 percent for retired judges in order to fund 50 percent of JSAS costs over the last 9 years. If the decrease were distributed equally among the judges, those currently contributing 2.2 percent of salaries would have to contribute 1.88 percent, and those currently contributing 3.5 percent of retirement salaries would have to contribute 3.18 percent.

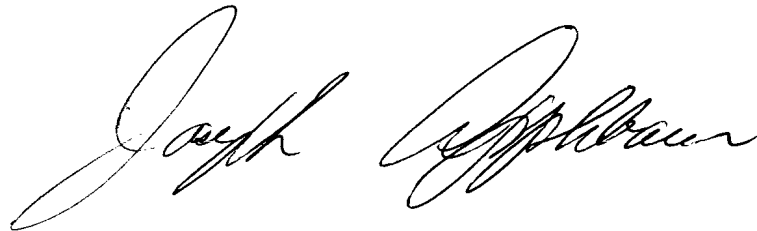
We have not declined to include downward adjustment information, as AOUSC states, but we are not recommending such an adjustment because of our interpretation of the statute's requirements.

We are sending copies of this report to interested congressional committees and the Director of AOUSC. Copies of this report will be made

available to others upon request. This report is also available at no charge on the GAO Web site at <http://www.gao.gov>. Please contact Steven J. Sebastian at (202) 512-3406 sebastians@gao.gov, or Joseph A. Applebaum at (202) 512-6336 applebaumj@gao.gov, if you or your staff have any questions concerning this report. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Julie Phillips, Assistant Director; Jehan Abdel-Gawad; and Kwabena Ansong.



Steven J. Sebastian
Director
Financial Management and Assurance



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Applied Research and Methods

Appendix I: Retirement Plans Available to Federal Judges

The Administrative Office of the United States Courts (AOUSC) administers three retirement plans for judges in the federal judiciary.

- The Judicial Retirement System automatically covers United States Supreme Court justices; federal circuit and district court judges; and territorial district court judges; and is available, at their option, to the Administrative Assistant to the Chief Justice; the Director of AOUSC; and the Director of the Federal Judicial Center.
- The Judicial Officers' Retirement Fund is available to bankruptcy and full-time magistrate judges.
- The United States Court of Federal Claims Judges' Retirement System is available to the United States Court of Federal Claims judges.

Also, judges who are not automatically covered under the Judicial Retirement System may opt to participate in the Federal Employees' Retirement System (FERS)¹ or elect to participate in the Judicial Retirement System for bankruptcy judges, magistrate judges, or United States Court of Federal Claims judges.

Judges who retire under the judicial retirement plans generally continue to receive the full salary amounts that were paid immediately before retirement, assuming the judges met the age and service requirements.

Retired territorial district court judges generally receive the same cost-of-living adjustment that Civil Service Retirement System retirees receive, except that their annuities cannot exceed 95 percent of an active district court judge's salary. United States Court of Federal Claims judge retirees continue to receive the same salary payable to active United States Court of Federal Claims judges.

Those in the Judicial Retirement System and the United States Court of Federal Claims Judges' Retirement System are eligible to retire when the number of years of service and the judge's age total at least 80, with a minimum retirement age of 65, and service ranging from 10 to 15 years.

¹FERS is open and available to new federal employees including judges. The Civil Service Retirement System (CSRS) has been closed to new employees since December 31, 1983. However, a newly appointed judge who had prior federal service (at least 5 years of service before January 1, 1987) may still elect CSRS.

**Appendix I: Retirement Plans Available to
Federal Judges**

Those in the Judicial Officers' Retirement Fund are eligible to retire at age 65 with at least 14 years of service or may retire at age 65 with 8 years of service, on a less than full salary retirement. Participants in all three judicial retirement plans are required to contribute to and receive Social Security benefits.

Appendix II: Explanation of the Method Used to Determine the Federal Government's Contribution Rate and Lump Sum Payout

Aggregate funding method. This method, as used by the Judicial Survivors' Annuities System (JSAS) plan, defines the normal cost rate as the level percentage of future salaries that will be sufficient, along with investment earnings and the plan's assets, to pay the plan's benefits for current participants and beneficiaries. The following discussion is intended to illustrate the use of the aggregate funding method.

For plan year 2007, the JSAS's actuary estimated the present value of future benefits for participating judges and beneficiaries was \$649,628,473 and the JSAS had assets amounting to \$491,788,627. The difference between these amounts, \$157,839,846, must be financed through future contributions to be paid by the participating judges and the federal government. Using the same assumptions as used to estimate the present value of future benefits, the actuary estimated the present value of participating judges' future salaries to be \$3,078,464,410 so that the amount to be financed represented 5.13% (\$157,839,846 divided by \$3,078,464,410) of the future participating judges' salaries. This percentage is the JSAS's normal cost rate. If all the actuarial assumptions proved exactly correct, then a total contribution of 5.13% of the participating judges' salaries annually would make up the difference between the JSAS's future payments and its assets (the \$157,839,846 mentioned above). The JSAS's actuary also estimated the present value of participating judges' future contributions to be \$78,123,909. Thus the federal government's share for plan year 2007 is the difference between \$157,839,846 and \$78,123,909, or \$79,715,937.

Federal government's actuarially recommended contribution rate. The federal government's actuarially recommended contribution rate is equal to the federal government's share of future financing (\$79,715,937) divided by the present value of the participating judges' future salaries (\$3,078,464,410). For the plan year 2007 the rate was 2.59% (\$79,715,937 divided by \$3,078,464,410). Thus, the actuarially recommended federal contribution is the product of the federal government's actuarially recommended contribution rate and the participating judges' salaries. The federal government's contribution is approved through an annual appropriation. It has varied, both above and below the actuarially recommended amount.

Lump sum payout. Under JSAS, a lump sum payout may occur upon the dissolution of marriage either through divorce or death of spouse. Payroll contributions cease, but previous contributions remain in JSAS. Also, if there is no eligible surviving spouse or child upon the death of a

**Appendix II: Explanation of the Method Used
to Determine the Federal Government's
Contribution Rate and Lump Sum Payout**

participating judge, the lump sum payout to the judge's designated beneficiaries is computed as follows:

- Lump sum payout equals the total amount paid into the plan by the judge plus 3 percent annual interest accrued, less 2.2 percent of salaries for each participating year (forfeited amount).

In effect, the interest plus any amount contributed in excess of 2.2 percent of judges' salaries will be refunded.

Appendix III: Comments from the Administrative Office of the United States Courts



ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

September 10, 2008

Mr. Steven J. Sebastian
Director, Financial Management and Assurance
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Sebastian:

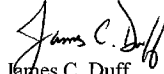
Thank you for the opportunity to review the draft report entitled *FEDERAL PENSIONS: Judicial Survivors' Annuities System Costs* (GAO-08-1104). The report accurately reflects the government's and participating judges' contribution rates into the Judicial Survivors' Annuities System (JSAS), and shows that for a third consecutive triennial cycle judges have paid a greater share of the cost of this system.

As reported over the past nine years, judges' contributions have funded approximately 60 percent of the cost of JSAS. The report states that GAO's responsibility is to recommend a change if judges' contributions are *less than* 50 percent; however, Section 201(i) of Public Law 102-572, the "Federal Courts Administration Act of 1992," directs the Comptroller General to report to Congress at the end of each three-fiscal-year period as to whether the judges' contributions account for 50 percent of the costs of the Judicial Survivors' Annuities Fund and to determine what adjustments would be needed to achieve the 50 percent figure. In view of the plain language of section 201(i), it would be useful to include an explanation as to why GAO has declined to determine the appropriate downward adjustment to judges' contribution rates to attain the 50 percent level.

Additionally, we have provided separately a few technical comments.

We appreciated the review team's professionalism in working with the Judiciary on this study.

Sincerely,


James C. Duff
Director

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

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