



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

February 23, 2011

MEMORANDUM

To: All United States Judges
Circuit Executives
Federal Public/Community Defenders
District Court Executives
Clerks, United States Courts
Chief Probation Officers
Chief Pretrial Services Officers
Senior Staff Attorneys
Chief Preargument/Conference Attorneys
Bankruptcy Administrators
Circuit Librarians

From:

James C. Duff

A handwritten signature in black ink that reads "James C. Duff".

RE:

HOUSE PASSAGE OF FISCAL YEAR 2011 FULL-YEAR CONTINUING RESOLUTION
(IMPORTANT INFORMATION)

On February 19, 2011, the House of Representatives passed H.R. 1, the Full-Year Continuing Appropriations Act of 2011. The bill provides funding to federal agencies, including the Judiciary, for the remainder of FY 2011. As anticipated, the bill includes deep reductions in federal spending. Government-wide, the bill reduces spending \$100 billion below the FY 2011 budget request level and \$60 billion below FY 2010 appropriations. For the Judiciary, the bill reduces overall funding by \$145 million (2.1 percent) below FY 2010 and \$200 million below the level needed to maintain base operations and current on-board court staffing levels.

At the House-passed level, the courts' Salaries and Expenses account is reduced by \$143 million (2.9 percent) below FY 2010. Decisions on spending reductions will ultimately be decided by the Executive Committee, and individual courts will determine spending priorities within their local budgets. The magnitude of the funding cuts in the House bill, combined with the fact that we are well into the fiscal year, could potentially result in the loss of a significant number of on-board court staff, **possibly up to twice as many as we lost in 2004**. We believe this is a worst-case scenario and will take all steps necessary to minimize adverse personnel actions, but it demonstrates the seriousness of funding cuts to the Judiciary included in the House-passed bill.

The Senate is expected to take up the House bill when it returns from its recess on February 28. It is uncertain if the Senate will agree to the funding cuts in the House-passed bill; the President has indicated he would veto the House bill. In addition, the current continuing resolution expires March 4 so it will be necessary for Congress to pass a short-term extension in order to complete work on a FY 2011 full-year appropriations bill. You may have read press reports concerning the possibility of a government-wide shutdown if Congress and the White House fail to agree on terms for extending the continuing resolution. Although Congressional leaders have said they want to avoid a shutdown, we are developing contingency plans in the event a shutdown occurs. I will send out guidance to the courts on operating during such a shutdown within the next few days.

I have consulted with Chief Judge David Sentelle (DC Circuit), chair of the Judicial Conference's Executive Committee, and Judge Julia Gibbons (Sixth Circuit), chair of the Budget Committee. **With all of this uncertainty and out of an abundance of caution, we are urging chief judges and court unit executives to institute immediately a hiring freeze for all but the most critical vacancies until a final FY 2011 spending bill is enacted. We also urge you to defer cash awards and discretionary step increases and to limit non-salary spending to essential expenditures only.** We believe your adoption of these measures will better position the Judiciary in the event final FY 2011 funding levels necessitate sharp reductions to court allotments below the interim financial plan.

Another area of concern is in the Defender Services account. The House bill funds that account at the FY 2010 level, which is \$50 million below the level needed to meet base program requirements. At this funding level, payments to private panel attorneys providing representation to indigents under the Criminal Justice Act would have to be suspended for the last several weeks of the fiscal year. After consulting with federal defenders about cost reduction options, a hiring freeze was imposed on all federal defender organization positions beginning in January, and within the last few days, guidance has been issued to suspend all discretionary salary increases and cash awards.

The uncertain funding situation has presented the Defender Services account with both immediate and longer term challenges. **The funding provided for panel attorney payments in the current continuing resolution has been exhausted, requiring the suspension of all panel attorney payments until additional funding has been approved.**

I will provide further updates on FY 2011 appropriations in the coming weeks. Please do not hesitate to contact George Schafer on 202-502-2000 if you have any questions about this memorandum or the FY 2011 full-year continuing resolution. Court units with specific questions on the local impact of the House-passed bill or on what actions are being considered to adjust allotments should contact their [Budget Division liaison](#).