

February 2013

FEDERAL PENSIONS

Judicial Survivors' Annuities System Costs for 2008 to 2010



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Highlights of [GAO-13-236](#), a report to congressional committees

Why GAO Did This Study

JSAS was created in 1956 to provide financial security for the families of deceased federal judges. JSAS is administered by AOUSC. Active and senior judges currently contribute 2.2 percent and 2.75 percent of their salaries to JSAS, depending on when they elected coverage, 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 was 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 funded less than 50 percent of these costs, GAO was to determine what adjustments to the contribution rates would be needed to achieve the 50 percent ratio. GAO used the normal cost rates determined by actuarial valuations of the system and compared the judges' normal cost rate against the plan's total normal cost rate. On December 28, 2012, the GAO audit requirement was repealed by the GAO Mandates Revision Act of 2012 (Pub. L. No. 112-234). Thus, this is the final GAO report.

What GAO Recommends

GAO is not making any recommendations in this report. In his comments on the draft report, the Director of AOUSC stated that the report accurately reflects the federal government's and participating judges' contribution rates. He further commented that AOUSC has implemented several improvements to strengthen the administration of JSAS.

View [GAO-13-236](#). For more information, contact Larry Malenich at malenichj@gao.gov or Frank Todisco at todiscof@gao.gov or call (202) 512-3406.

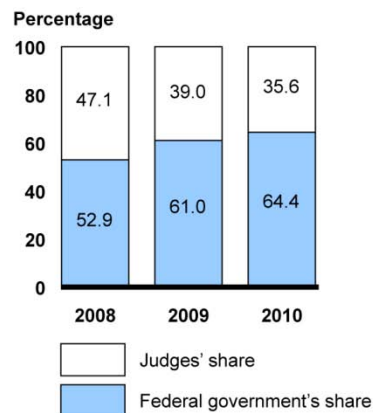
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What GAO Found

GAO found that for the 2008 to 2010 time frame covered by this review, the participating judges' share of normal cost was, on average, about 41 percent of the Judicial Survivors' Annuities System (JSAS) total normal costs, and the federal government's share of normal cost was about 59 percent of JSAS total normal costs. The federal government's share of JSAS normal costs increased over the years included in GAO's review, from approximately 53 percent in plan year 2008, to 61 percent in plan year 2009, and to approximately 64 percent in plan year 2010. The increase was a result of (1) less favorable actual economic and demographic outcomes over this period than predicted by the actuarial assumptions and (2) changes in actuarial assumptions regarding future economic and demographic outcomes.

Judges' and Federal Government's Shares of Costs



Source: JSAS actuarial valuation reports, 2008 to 2010.

GAO determined that to cover one-half of the projected JSAS costs, based on an average of the past three actuarial valuations, the participating judges' contribution rates would have to be increased 0.66 percentage points above the current rates. However, increasing the judges' contribution rates could adversely affect participation in the plan, which would be contrary to one of the major reasons for the structural changes made to JSAS over the years.

GAO also identified errors in the actuarial valuation report for plan year 2010 and the Administrative Office of the United States Courts (AOUSC) actuary subsequently issued a corrected report. To prevent these errors from occurring in the future, AOUSC revised its procedures for the preparation of the actuarial valuation reports in November 2012 that incorporated appropriate internal controls to help ensure that information provided to the actuary for future actuarial valuation reports is complete and accurate. GAO determined that the revised procedures developed by AOUSC, if properly implemented, are sufficient to address the errors identified.

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Abbreviations

AFSD	Accounting and Financial Systems Division
AOUSC	Administrative Office of the United States Courts
COLA	cost-of-living adjustment
CSRS	Civil Service Retirement System
FASAB	Federal Accounting Standards Advisory Board
FASB	Financial Accounting Standards Board
FERS	Federal Employees Retirement System
HRMIS	Human Resources Management Information System
JCRSO	Judges Compensation and Retirement Services Office
JSAS	Judicial Survivors' Annuities System
OPM	Office of Personnel Management
SFFAS	Statement of Federal Financial Accounting Standards

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

February 22, 2013

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

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

The Judicial Survivors' Annuities System (JSAS) was established in 1956 as a voluntary survivor benefit plan available to Article III judges and certain non-Article III judges.¹ The Administrative Office of the United States Courts (AOUSC) is responsible for administering JSAS. JSAS is to provide 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 officials who participated in JSAS.²

The Federal Courts Administration Act of 1992 enhanced the benefits available from JSAS and reduced the amounts that participating judges were required to contribute toward the plan's costs.³ The act required us to review JSAS costs every 3 years and to determine whether the judges' contributions fund at least 50 percent of the plan's costs. If the contributions fund less than 50 percent of these costs, we are required to

¹"Article III judges" 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 branches are the legislative and executive branches. Non-Article III judges are judges of the U.S. territories, bankruptcy and magistrate judges, and judges of the U.S. Court of Federal Claims.

²As noted in app. 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.

³Pub. L. No. 102-572, 106 Stat. 4506 (Oct. 29, 1992).

determine what adjustments to the contribution rates would be needed to achieve the 50 percent ratio. This audit provision in the 1992 act was repealed on December 28, 2012.⁴ Therefore, this is our sixth and final report since the passage of the 1992 act.⁵

Objectives, Scope, and Methodology

Our objectives were to determine whether participating judges' contribution rates for the 2008, 2009, and 2010 plan years funded 50 percent of the JSAS costs and, if not, what adjustments in the contribution rates would be needed to achieve the 50 percent ratio.⁶ To satisfy our objectives, we used the normal cost rates determined by actuarial valuations of the system for each of the 3 plan years and determined the judges' normal cost share of the plan's total normal cost rate. The normal cost rate is the level percentage of future salaries projected to 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.⁷ The plan's actuary, using the plan's funding method—in this case, the aggregate cost method⁸—determines the plan's normal cost rate for each plan year. We also examined participants' contributions, the federal government's contribution, and other relevant information in each plan year's JSAS actuarial valuation report.

⁴GAO Mandates Revision Act of 2012, Pub. L. No. 112-234, 126 Stat. 1624 (Dec. 28, 2012).

⁵GAO, *Federal Pensions: Judicial Survivors' Annuities System Costs*, [GAO-08-1104](#) (Washington, D.C.: Sept. 17, 2008); *Federal Pensions: Judicial Survivors' Annuities System Costs*, [GAO-05-955](#) (Washington, D.C.: Sept. 16, 2005); *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).

⁶For purposes of this report, we use "plan year" to refer to the year following a particular actuarial valuation date. For example, plan year 2010 refers to the 12 months following the October 1, 2010, actuarial valuation.

⁷In the calculation of normal cost, "salaries" includes salaries for active and retired judges. Both active and retired judges make contributions to the plan if they participate in the survivors' benefit program.

⁸The aggregate cost method is essentially the spreading of any unfunded present value of future benefits as a level percentage of future payroll. See app. II for a discussion of the aggregate cost method.

An independent accounting firm hired by AOUSC audited the JSAS financial information, and the plan's actuary certified the actuarial information included in the JSAS actuarial valuation reports. We discussed the contents of the JSAS actuarial valuation reports with officials from AOUSC and the plan's actuary for the 3 plan years (2008 to 2010).

During the course of our review, we identified errors in the actuarial valuation report for plan year 2010, which resulted in the reissuance of the report. We used this reissued actuarial valuation report to conduct our analysis and reviewed AOUSC's revised procedures for the preparation of the actuarial valuation reports to determine if planned actions were sufficient to address the errors we found.

In addition, we discussed with the plan's actuary the actuarial assumptions, methodology, and plan provisions used to project future benefits of the plan. We did not independently audit the JSAS actuarial valuation reports or the actuarially calculated cost figures. However, because we had to rely on the work performed by the plan's actuary, we reviewed the qualifications of the plan's actuary who prepared the JSAS actuarial valuation reports for plan years 2008 to 2010 and found that the actuary met relevant qualification standards.

We conducted this performance audit from January 2012 through February 2013 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 provided a draft of this report to the Director of AOUSC for review and comment.

Background

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

History of JSAS

JSAS was created in 1956 to help provide financial security for the families of deceased federal judges. Generally, it was established to provide benefits to surviving eligible spouses and unmarried 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. 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, including retirement 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. JSAS also provides survivor annuity benefits to unmarried dependent children under age 18 or age 22 if they are full-time students. 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, provided the judge was an insured worker under the Social Security system.

Since its inception, 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 1985.⁹ 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.¹⁰ 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. 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

⁹Pub. L. No. 99-336, 100 Stat. 633 (June 19, 1986).

¹⁰Pub. L. No. 94-554, 90 Stat. 2603 (Oct. 19, 1976).

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 from 5 percent 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.¹¹ 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 retirement salary.¹² Prior to 2008, surviving spouses forfeited their JSAS annuity rights if they remarried before reaching age 55. In 2008, JSAS was amended to restore the judicial survivor's spousal annuity upon the termination or dissolution of a subsequent remarriage by annulment, death, or divorce.¹³

Furthermore, after AOUSC conducted a study of JSAS to determine whether it was equitable in its coverage and cost when compared to other survivor benefit programs, Congress passed the Judicial Survivors Protection Act of 2009.¹⁴ The 2009 act authorized an open season, which covered the period from September 11, 2009, through March 10, 2010, for judges who previously opted not to enroll in JSAS. However, these judges were required to pay 2.75 percent of future pay instead of the 2.2 percent referred to in the 1992 act. The 2009 act also allowed judges to purchase, in 3-month increments, up to an additional year of service credit for each year of federal judicial service completed. According to

¹¹The 1992 act amendments also included coverage for senior judges and judges who resign from their offices.

¹²A judge who is not entitled to receive an immediate retirement salary upon leaving office, but who is eligible to receive a deferred retirement salary at a later date, may—upon written notification—remain in JSAS by contributing an annual sum equal to 3.5 percent of the deferred retirement salary amount.

¹³Pub. L. No. 110-428, 122 Stat. 4839 (Oct. 15, 2008); 28 U.S.C. § 376(x).

¹⁴Pub. L. No. 111-49, 123 Stat. 1976 (Aug. 12, 2009).

AOUSC, during this open season, 279 judges enrolled in JSAS, increasing the participation rate from 60 percent to 71 percent.¹⁵

According to the JSAS actuarial valuation report for plan year 2010 issued on November 16, 2012, as of October 1, 2010, there were 1,542 active and senior judges, 268 retired judges, and 356 survivor annuitants covered under JSAS.

Calculation of Federal Share

JSAS is financed by judges' contributions and direct appropriations of federal funds. Funds appropriated are in amounts estimated to be sufficient, together with judges' contributions, investment earnings, and the plan's assets, to fund the future benefits paid to survivors of current and deceased participants.¹⁶ The plan's actuary, using the plan's funding method—in this case, the aggregate cost method—determines the plan's normal cost rate for each plan year. Normal cost calculations are estimates and require that many actuarial assumptions be made about the future, including, but not limited to, mortality rates, turnover rates, 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, the allocation of these total long-term costs to particular years' costs may differ, depending on the cost method used. The federal government's actuarially recommended contribution is the product of the federal government's normal cost rate and the participating judges' salaries. The actual federal government contribution is through annual appropriations.

To determine the actuarially recommended annual contribution of the federal government, AOUSC, which is responsible for the administration of JSAS, engages an enrolled actuary 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 value of net assets in the

¹⁵AOUSC calculated the participation rates by adding all participating judges and dividing the total by the number of judges eligible to participate in JSAS, including both active and retired judges.

¹⁶JSAS plan assets are invested only in U.S. Treasury securities.

plan.¹⁷ For the 3-year period under review, AOUSC's Accounting and Financial Systems Division (AFSD) was responsible for gathering and transmitting relevant information, such as participants' demographic data and economic assumptions, to the plan's actuary to perform these calculations. Appendix II provides more details on the methodology used to determine the federal government's contribution rate.

Judges' Share of JSAS Normal Cost Was Less Than Half of Plan's Costs

For JSAS plan years 2008 to 2010, the participating judges' share of normal cost was, on average, about 41 percent of the plan's costs. Based on information contained in the JSAS actuarial valuation reports for plan years 2008, 2009, and 2010, to cover one-half of the plan's future costs, the judges' contribution rates would need to increase by 0.66 percentage points. However, increasing the judges' contribution rates could adversely affect participation in the plan, which would be contrary to one of the major reasons for the structural changes made to JSAS over the years. This is the third time since 1992 we have reported that the judges' contribution rates did not account for one-half of JSAS normal costs.¹⁸

JSAS Costs for Plan Years 2008 to 2010

In plan year 2008, participating judges' normal costs represented about 47 percent of JSAS total normal costs, which was slightly less than the 50 percent goal. The difference between the 50 percent ratio and the participating judges' share became larger in plan years 2009 and 2010, when judges' normal costs represented 39 percent and approximately 36 percent of JSAS total normal costs, respectively. The judges' average share of total normal costs for the 3-year period under review was about 41 percent. The federal government's share of JSAS normal costs increased over the years included in our review, from approximately 53 percent in plan year 2008, to 61 percent in plan year 2009, and to approximately 64 percent in plan year 2010. The government's average share of total normal costs for the 3-year period under review was about 59 percent. Table 1 shows, for the period covered in our review, the

¹⁷An 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.

¹⁸In 1997 and 2000, we reported that judges' normal costs represented, on average, 36 percent and 40 percent, respectively, of the plan's costs. See [GAO/GGD-97-87](#) and [GAO/GGD-00-125](#).

judges' and the federal government's normal cost rates and shares of JSAS normal costs using the aggregate cost method. See appendix II for a discussion of the aggregate cost method.

Table 1: Percentage Share of JSAS Normal Costs Borne by Participating Judges and the Federal Government, Plan Years 2008 to 2010

Source of contributions	JSAS normal cost rates and shares						
	2008		2009		2010		2008-2010
	Rate ^a	Share ^b	Rate ^a	Share ^b	Rate ^a	Share ^b	Average share ^c
Judges	2.55	47.1	2.62	39.0	2.70	35.6	40.6
Government	2.86	52.9	4.09	61.0	4.89	64.4	59.4
Total normal costs	5.41	100.0	6.71	100.0	7.59	100.0	100.0

Source: JSAS actuarial valuation reports, 2008 to 2010.

^aNormal cost is expressed as a percentage of the present value of participants' future salaries.

^bThis is a percentage of total normal cost.

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

The total normal costs expressed as a percentage of the present value of participants' future salaries shown in table 1 increased from 5.41 percent in plan year 2008 to 7.59 percent in plan year 2010. The judges' actual rate of normal cost increased marginally from 2.55 percent of salaries in plan year 2008, to 2.62 in plan year 2009, and to 2.70 percent of salaries in plan year 2010. During those same years, the recommended government's contribution rate increased from 2.86 percent of salaries in plan year 2008 to 4.09 percent of salaries in plan year 2009, and to 4.89 percent in plan year 2010.

Most of the increase in the recommended federal government's contribution rate over the 3 years under review was due to (1) less favorable actual economic and demographic outcomes over this period than predicted by the actuarial assumptions (known as losses from economic and demographic "experience") and (2) changes in actuarial assumptions regarding future economic and demographic outcomes. Specifically, in plan years 2008 and 2009, both economic and demographic experience were less favorable than predicted by the actuarial assumptions; this included losses because of rates of return on plan assets being significantly less than assumed as well as other

factors.¹⁹ In addition, economic and demographic assumptions were revised to reflect (1) expected increases in life expectancy and (2) decreases in assumed future rates of investment return, inflation, and salary increases. Beginning in plan year 2009, to reflect lower mortality rates, the plan's actuary used a mortality table that projected mortality rates forward to build in 5 years of mortality improvement and applied a 4-year age setback.²⁰ In addition, in plan year 2010, the assumed rates of investment return and inflation were changed to be consistent with changes in the assumptions used by the Office of Personnel Management (OPM) for CSRS. These changes included a decrease in the assumed rate of investment return from 6.25 percent to 5.75 percent.

One factor that may further increase the federal government's contribution rate over the next 3-year cycle is continued low interest rates. Specifically, if rates remain at today's low levels, a further reduction in the assumed rate of investment return is possible. Potential changes to other assumptions, such as salary increases, inflation, and mortality improvement, as well as actual demographic and economic experience over the next 3-year cycle, would also influence future contribution rates.

Adjustment That Would Be Needed in Judges' Contribution Rates

Based on our review of the judges' contribution rates for JSAS, we determined that to cover 50 percent of the projected JSAS costs, based on an average of the past three actuarial valuations, the participating judges' contribution rates would have to be increased 0.66 percentage points above the current rates. There are many ways a rate increase could be distributed among plan participants. For example, the increase could be equally distributed among those currently contributing 2.2 percent, 2.75 percent, and 3.5 percent. If the increase were distributed equally among the judges, those contributing 2.2 percent would be increased to 2.86 percent, those contributing 2.75 percent would be

¹⁹Economic and demographic experience also includes differences between actual and assumed rates of retirement, death, disability, turnover, new members, pay increases, and COLAs owing to inflation. Depending upon the direction of the differences between actual and assumed outcomes, this can produce "experience losses," which increase costs, or "experience gains," which decrease costs.

²⁰An "age setback" means that at each attained age, a member is assumed to be younger than his stated age, which increases life expectancy. For example, a member who is 48 years old is assumed to be 44 years old when projecting mortality rates.

increased to 3.41 percent, and those contributing 3.5 percent would be increased to 4.16 percent.

Increase in Judges' Contribution Rates Could Adversely Affect the Number of Plan Participants

A potential impact of increasing the contribution rates could be a decline in the participation rate for JSAS. Increasing the participation rate in JSAS was a major reason for the plan changes made over the years. In the past, we reported a participation rate in JSAS of 38 percent before passage of the 1992 act.²¹ According to AOUSC, the participation rate in JSAS was 71 percent as of September 30, 2010. Increasing the contribution rates now, along with the potential for changing the rates every 3 years, could have an impact on judges' decisions to participate in JSAS.

Table 2 illustrates how the normal cost share for judges and the federal government has fluctuated over the past 9 years.

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

Plan year	2002	2003	2004	2005	2006	2007	2008	2009	2010	Average share ^a
Aggregate normal cost rate ^b	3.66	2.97	3.00	3.80	5.03	5.13	5.41	6.71	7.59	100.0
Government's normal cost rate ^b	1.34	0.65	0.68	1.48	2.50	2.59	2.86	4.09	4.89	-
Judges' normal cost rate ^b	2.32	2.32	2.32	2.32	2.53	2.54	2.55	2.62	2.70	-
Judges' share ^c	63.4	78.0	77.3	61.1	50.3	49.5	47.1	39.0	35.6	55.7
Government's share ^c	36.6	22.0	22.7	38.9	49.7	50.5	52.9	61.0	64.4	44.3

Source: JSAS actuarial valuation reports, 2002 to 2010.

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

^bNormal cost is expressed as a percentage of the present value of participants' future salaries.

^cThis is a percentage of total normal cost.

As shown in table 2, the judges' normal cost share, in any given year, may vary from the 50 percent goal, either exceeding or not meeting this goal. The judges' annual share of normal costs for the 9-year period covering plan years 2002 to 2010 ranged from approximately 36 to 78 percent over this period, averaging approximately 56 percent.

²¹[GAO/GGD-00-125](#).

Plan Year 2010 Actuarial Valuation Report Was Reissued Because of Omissions and Errors

Our review of the JSAS actuarial valuation reports showed that AOUSC had not established sufficient controls to help ensure that the information provided to the actuary to calculate actuarial amounts used in determining JSAS normal costs was complete and accurate. Specifically, during our review, we found that the initial actuarial valuation report issued in May 2011 for plan year 2010 (1) omitted information on legislative changes affecting the plan provisions, (2) contained inaccurate participant data, and (3) used incorrect economic assumptions.²² After we brought these issues to AOUSC's attention, the agency provided updated information to the actuary, and the actuary reissued its actuarial valuation report for plan year 2010 in November 2012.

Omissions Related to Legislative Changes

We found that AOUSC did not provide key information to the actuary about changes in plan provisions authorized by the Judicial Survivors Protection Act of 2009, including the establishment of an open enrollment season. Although AOUSC's AFSD provided to the actuary the number of participants who enrolled during the open season, AFSD did not notify the actuary that these judges contributed 2.75 percent of pay as authorized by the 2009 act, instead of the 2.2 percent required by the Federal Courts Administration Act of 1992. Similarly, AFSD did not provide the actuary with the number of judges who purchased additional years of service, also allowed under the 2009 act. As a result, these plan changes were not considered when the actuary initially calculated the normal cost rates for plan year 2010. Further, the initial actuarial valuation report for plan year 2010 did not document any changes in plan provisions when describing the JSAS plan.

AOUSC officials explained that in October 2009, the person responsible for preparing the information for the actuary separated from the agency, and a new staff person was assigned to perform these responsibilities. The new staff person was not as familiar with the required information to be provided to the actuary. In addition, AFSD had not established procedures that required coordination with the Office of Human Resources' Judges Compensation and Retirement Services Office (JCRSO). JCRSO manages the processing of all personnel and payroll documents for all judges and survivors through the Human Resources

²²AOUSC determined, and we concurred, that additional errors in participant data for plan years 2008 and 2009 were immaterial; therefore, no changes were required to the actuarial valuation reports for those plan years.

Management Information System (HRMIS).²³ As such, JCRSO staff members are knowledgeable about changes in JSAS that affect contribution rates and participation. However, JCRSO did not participate in preparing the information that was provided to the actuary, nor did it review the actuarial valuation reports before they were issued because AOUSC's procedures did not require such coordination. As a result, plan participant information resulting from changes in plan provisions was omitted from the plan year 2010 initial actuarial valuation report.

Inaccurate Participant Data

We also found that AOUSC provided inaccurate participant data to the actuary. AFSD provided the actuary participant data from its Census database for the 2010 plan year, which were not reviewed and properly reconciled to HRMIS by JCRSO's staff.²⁴ AFSD uses data from HRMIS to annually update the Census database to provide the actuary information on judiciary retirement and survivor plans. Because participant data were not reviewed and properly reconciled by experienced and knowledgeable JCRSO staff members, participant status was sometimes misclassified, and the total number of participants was incomplete in the original data provided to the actuary for plan year 2010. For example, in plan year 2010, there were 2,870 participants in the Census database and 2,840 participants in the HRMIS database—a difference of 30 participants. Although this difference only represented about 1 percent of the population of participants, which by itself is not material, the lack of adequate reconciliation and review procedures could have led to a more significant misstatement of the reported amounts that may not have been prevented or detected and corrected in a timely manner. Having incorrect data about plan participants can affect the actuarial amounts used in calculating JSAS normal costs.

²³HRMIS is an automated personnel system maintained and administered by AOUSC's Office of Human Resources that contains current personnel and payroll data for all judiciary staff members.

²⁴The Census database is an Excel spreadsheet maintained by AFSD that lists all plan participants, demographic data, and contributions to the plan.

According to AOUSC, these differences occurred because, as discussed previously, there was no required reconciliation of Census and HRMIS data by JCRSO. Although AFSD had procedures that required its management to review the Census database and the actuarial reports before issuance, these procedures did not require that data provided to the actuary be reviewed and approved by JCRSO.

Incorrect Economic Assumptions

We found that AOUSC inadvertently provided incorrect economic assumptions to the actuary for plan year 2010. Actuaries use economic and demographic assumptions to calculate various actuarial present values, such as a plan's present value of future benefits. For JSAS, the actuary is responsible for the demographic assumptions, which include rates for mortality, retirement, termination, and disability. AOUSC is responsible for providing the actuary the economic assumptions to be used in the actuarial valuation reports, which include rates for return on investment, inflation, and salary increases.²⁵ For the economic assumptions, AOUSC has historically made a determination to use assumptions that are consistent with those used by OPM in its determination of funding requirements for the federal CSRS, specifically those that relate to return on investment and inflation.²⁶ Prior to fiscal year 2010, OPM used the same set of economic assumptions for funding and financial reporting purposes.²⁷ However, effective in fiscal year 2010, Statement of Federal Financial Accounting Standards 33 (SFFAS No. 33) required federal agencies (including OPM) to use a prescribed methodology for determining economic assumptions for financial reporting purposes.²⁸ This prescribed methodology differed from the

²⁵The plan's actuary would normally also review these assumptions for reasonableness in accordance with actuarial standards of practice.

²⁶AOUSC generates its own assumed rates of salary increase rather than using OPM's assumed rates because expectations regarding salary increases for judges are generally not the same as those for other federal employees.

²⁷Calculations for funding are for the purpose of determining the recommended annual cash contributions to be made to a pension plan. Calculations for financial reporting are for the purpose of determining costs reported in a pension plan sponsor's annual financial statements, which are governed by generally accepted accounting principles, which may differ from statutory funding rules.

²⁸Federal Accounting Standards Advisory Board, *Statement of Federal Financial Accounting Standards 33, Pensions, Other Retirement Benefits, and Other Postemployment Benefits: Reporting the Gains and Losses from Changes in Assumptions and Selecting Discount Rates and Valuation Dates* (Washington, D.C.: Oct. 14, 2008).

methodology used by OPM for determining the economic assumptions for funding purposes. As a result, OPM began using one set of economic assumptions for funding and another set of economic assumptions for financial reporting purposes beginning in fiscal year 2010. For JSAS, AOUSC inadvertently provided the actuary the economic assumptions used for financial reporting instead of the economic assumptions for funding. According to AOUSC, its staff members were not aware of the issuance of SFFAS No. 33—and the change to two sets of economic assumptions—because the agency, for its own financial reporting, does not follow the Federal Accounting Standards Advisory Board (FASAB) standards but rather the Financial Accounting Standards Board (FASB) standards.²⁹ Subsequently, AOUSC instructed the actuary to change the plan year 2010 economic assumptions. The actuary issued a revised actuarial valuation report to include the newly required assumptions on November 16, 2012. The assumed rate for return on investment was revised from 4.80 percent to 5.75 percent, and the assumed rate of inflation was revised from 2.50 percent to 3 percent, causing the actuarial amounts in the actuarial valuation report for plan year 2010 to change.

Revisions to Plan Year 2010 JSAS Report and Actions Taken by AOUSC

In the reissued report, the normal cost rate, expressed as a percentage of the present value of participants' future salaries, decreased from 9.21 percent in the initial report to 7.59 percent because of the combined effect of the errors noted above. In addition, the judges' share of total normal cost increased from 28.7 percent to 35.6 percent, a net increase of 6.9 percentage points. The government's share of total normal cost decreased by 6.9 percentage points as well, from 71.3 percent to 64.4 percent. We reviewed the changes made by the actuary in the November 2012 report and found that the reissued report addressed the errors we found in our review.³⁰

²⁹FASAB develops accounting standards and principles for the United States government while FASB develops accounting standards for nongovernmental entities. However, FASAB permits federal entities such as AOUSC that in the past adopted FASB standards to continue to report under FASB standards and refer to these standards as generally accepted accounting principles.

³⁰As noted earlier in this report, we did not independently audit the actuarially calculated cost figures.

Reporting complete and accurate information is critical to ensuring that Congress has the accurate and complete information it needs to make key decisions about JSAS. *Standards for Internal Control in the Federal Government* provides that internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations, including regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties.³¹ The standards also state that effective communications should occur in a broad sense with information flowing down, across, and up the organization. Because AOUSC's policies and procedures did not incorporate key monitoring and communication controls for JSAS, the calculations for determining the plan's cost were inaccurate, and the plan year 2010 actuarial valuation report had to be reissued.

To prevent these errors from occurring in the future, AOUSC issued revised procedures in November 2012 that incorporated internal controls to help ensure that information provided to the actuary for future actuarial valuation reports is complete and accurate. Specifically, in its revised procedures, AOUSC assigned JCRSO as the plan actuary's main point of contact. JCRSO is now responsible for producing the judges' population and demographic data needed for the plan's actuary after properly reconciling the data. As part of the revised procedures, AOUSC created the Judges' Retirement and Survivors' Trust Fund Monitoring Group to provide operational oversight and focus on issues related to JSAS, such as legislative changes to the plan. The monitoring group includes staff members from JCRSO, AFSD, and the Office of the General Counsel. AOUSC's revised procedures also require the actuary to prepare valuation reports that include economic assumptions for both funding and financial reporting purposes. The economic assumptions used by the actuary are to be approved and documented by the monitoring group after consulting with OPM. Further, AOUSC's revised procedures require that JCRSO review actuarial valuation reports before issuance to help ensure the accuracy of participant data and completeness of all relevant information affecting JSAS. We determined that the revised procedures developed by AOUSC, if properly implemented, are sufficient to address the issues we identified in this report. Consequently, we are not making any recommendations in this report.

³¹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

Agency Comments

We provided a draft of this report to AOUSC for review and comment. Written comments from the Director of AOUSC are reprinted in appendix III. AOUSC also provided technical comments, which we have incorporated as appropriate.

In his comments, the Director of AOUSC stated that our report accurately reflects the federal government's and participating judges' contribution rates into JSAS and recognizes that judges have contributed almost 56 percent of the cost of the program from fiscal years 2002 through 2010. AOUSC's Director also stated that AOUSC has implemented several improvements to strengthen the administration of JSAS, including the incorporation of better internal controls, improved communication and coordination between offices with JSAS responsibilities, and documentation of the new process.

We are sending copies of this report to interested congressional committees and the Director of the Administrative Office of the United States Courts. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact Larry Malenich at malenichj@gao.gov or Frank Todisco at todiscof@gao.gov or call (202) 512-3406. 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 are listed in appendix IV.



J. Lawrence Malenich
Director
Financial Management and Assurance



Frank Todisco
Chief Actuary
Applied Research and Methods

The undersigned meets the qualification standards of the American Academy of Actuaries to render the actuarial opinions contained in this report.



Frank Todisco, FSA, MAAA, EA
Chief Actuary

Appendix I: Retirement Systems Available to Federal Judges

The Administrative Office of the United States Courts (AOUSC) administers three retirement systems 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 Counselor to the Chief Justice, the Director of the Administrative Office of the United States Courts, and the Director of the Federal Judicial Center.
- The Judicial Officers' Retirement System 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.

Bankruptcy, full-time magistrate, and United States Court of Federal Claims judges are automatically covered under the Federal Employees Retirement System (FERS) and may elect to participate in the Judicial Officer's Retirement System or the United States Court of Federal Claims Judges' Retirement System.¹

Judges who retire under the judicial retirement systems 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.

¹FERS is open and available to new federal employees, including bankruptcy, magistrate, and United States Court of Federal Claims 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.

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. Those in the Judicial Officers' Retirement System 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 systems may contribute to and receive Social Security benefits.

Appendix II: Aggregate Funding Method Used to Determine the Federal Government's Contribution Rate

The aggregate funding method used by the Judicial Survivors' Annuities System (JSAS) plan defines the normal cost rate as the level percentage of future salaries that is projected to be sufficient, along with investment earnings and the plan's assets, to pay the plan's benefits for current participants and beneficiaries.¹ The following discussion is intended to illustrate the use of the aggregate funding method.

For plan year 2010, the JSAS's actuary estimated that the present value of future benefits for participating judges and beneficiaries was \$889,109,891, while JSAS had assets amounting to \$530,175,757. The difference between these amounts, \$358,934,134, 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 \$4,727,919,865 so that the amount to be financed represented 7.59 percent (\$358,934,134 divided by \$4,727,919,865) of the participating judges' future salaries. This percentage is JSAS's normal cost rate. If all the actuarial assumptions proved exactly correct, then a total contribution of 7.59 percent of the participating judges' salaries annually would make up the difference between JSAS's future payments and its assets (the \$358,934,134 mentioned above). The JSAS's actuary also estimated the present value of participating judges' future contributions to be \$127,723,509. Thus, the federal government's share of the present value of future contributions is the difference between \$358,934,134 and \$127,723,509, or \$231,210,625.

Under this method, for plan year 2010, the federal government's actuarially recommended contribution rate is equal to the federal government's share of future financing (\$231,210,625) divided by the present value of the participating judges' future salaries (\$4,727,919,865). For plan year 2010, the rate was 4.89 percent (\$231,210,625 divided by \$4,727,919,865). Thus, the actuarially recommended federal government contribution for a particular year is the product of the federal government's actuarially recommended contribution rate and the participating judges' salaries for that year. The actual federal government contribution is approved through annual appropriations, which could vary above and below the actuarially recommended amount. According to

¹"Salaries" includes salaries for active and retired judges.

**Appendix II: Aggregate Funding Method Used
to Determine the Federal Government's
Contribution Rate**

AOUSC, the amount appropriated is usually equal to the actuarially recommended amount. However, there is a time lag between the AOUSC budget preparation and the issuance of the actuarial valuation reports. For example, the appropriations received for fiscal year 2010 were based on the recommended contributions from the actuarial valuation report for fiscal year 2008 (that is, the valuation as of October 1, 2007) as it was the most current report available when the fiscal year 2010 budget was prepared.

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



ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

HONORABLE THOMAS F. HOGAN
Director

WASHINGTON, D.C. 20544

February 11, 2013

Mr. J. Lawrence Malenich
Director
Financial Management and Assurance
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Malenich:

Thank you for the opportunity to review the draft report entitled *FEDERAL PENSIONS: Judicial Survivors' Annuities System Costs for 2008 to 2010* (GAO-13-236). The Government Accountability Office report accurately reflects the federal government's and participating judges' contribution rates into the Judicial Survivors' Annuities System (JSAS) and recognizes that judges have contributed almost 56 percent of the cost of the program from fiscal year 2002-2010. In fact, since the enactment of the Federal Courts Administration Act of 1992 (Pub. L. 102-572), judges have contributed more than 50 percent of the cost of the program.

The Administrative Office of the U.S. Courts has implemented several improvements to strengthen the administration of the JSAS program. These improvements have included the incorporation of better internal controls, improved communication and coordination between offices with JSAS program responsibilities, and documentation of the new process.

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

Sincerely,

A handwritten signature in black ink that reads "Thomas F. Hogan".

Thomas F. Hogan
Director

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

Larry Malenich, (202) 512-3406 or malenichj@gao.gov

Frank Todisco, (202) 512-3406 or todiscof@gao.gov

Staff Acknowledgments

In addition to the individuals named above, Julie Phillips (Assistant Director), Jehan Chase, and Nina M. Rostro made key contributions to this report.

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