

**UNITED STATES COURT OF APPEALS  
FOR VETERANS CLAIMS**



**FISCAL YEAR 2022 BUDGET ESTIMATE  
FEBRUARY 1, 2021**

**FISCAL YEAR 2022 BUDGET ESTIMATE**

**TABLE OF CONTENTS**

	<b>PAGE</b>
<b>INTRODUCTION.....</b>	<b>3</b>
<b>APPROPRIATION LANGUAGE.....</b>	<b>4</b>
<b>PROGRAM JUSTIFICATION.....</b>	<b>5</b>
<b>FISCAL YEAR 2020 PROGRAM.....</b>	<b>7</b>
<b>FISCAL YEAR 2021 PROGRAM.....</b>	<b>8</b>
<b>FISCAL YEAR 2022 PROGRAM.....</b>	<b>9</b>
<b>SUMMARY OF FISCAL YEAR 2022 BUDGET REQUEST.....</b>	<b>10</b>
<b>SUMMARY OF FISCAL YEAR 2022 PROGRAM FUNDING CHANGES.....</b>	<b>11</b>
<b>DETAILS OF FISCAL YEAR 2022 PROGRAM FUNDING CHANGES .....</b>	<b>12</b>
<b>PROGRAM AND FINANCING SCHEDULE.....</b>	<b>15</b>
<b>OBJECT CLASSIFICATION SCHEDULE .....</b>	<b>16</b>
<b>JUDGES' RETIREMENT FUND INTRODUCTION AND SCHEDULE.....</b>	<b>17</b>
<b>PRO BONO REPRESENTATION SERVICES</b>	
<b>Fiscal Year 2022 Budget Request.....</b>	<b>Appendix A</b>

## INTRODUCTION

The United States Court of Appeals for Veterans Claims (Court) is a national court of record established by the Veterans Judicial Review Act, Pub. L. No. 100–687, Division A (1988) (Act). The Act, as amended, is codified in part at 38 U.S.C. §§ 7251–7299. The Court is located in Washington, D.C., but as a national court may sit anywhere in the United States.

The Court is part of the federal judicial system and has a permanent authorization for seven judges, one of whom serves as chief judge. Under Public Law No. 116-159, Congress extended the temporary authorization that expands the Court to nine active judges, and currently all nine positions are filled. Judges are appointed by the President, by and with the advice and consent of the Senate, for 15-year terms. Upon retirement, a judge may choose to be recall eligible, and thus willing to be recalled to service by the Chief Judge. Ten of the Court's retired judges are recall eligible, and four are currently in recall status. Recall-eligible retired judges may elect full retirement at any time.

The Court has exclusive jurisdiction to review decisions made by the Department of Veterans Affairs Board of Veterans' Appeals (Board) that adversely affect a person's entitlement to VA benefits. This judicial review, although specialized in scope, is the same as that performed by all other United States Courts of Appeals. In cases before it, the Court has the authority to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions; and to determine the meaning or applicability of actions/decisions by the Secretary of Veterans Affairs. The Court may affirm, set aside, reverse, or remand those decisions as appropriate. Additionally, the Court has class action authority, has jurisdiction under 28 U.S.C. § 1651 to issue all writs necessary or appropriate in aid of its jurisdiction, and acts on applications under 28 U.S.C. § 2412(d), the Equal Access to Justice Act (EAJA). Certain decisions by the Court are reviewable by the United States Court of Appeals for the Federal Circuit and, if *certiorari* is granted, by the Supreme Court of the United States. For management, administration, and expenditure of funds in areas beyond the bounds of Chapter 72 of Title 38, the Court may exercise the authorities provided for such purposes applicable to other courts as defined in Title 28, U.S. Code.

In 1992, Congress authorized the Court to transfer funds from its appropriation that year to the Legal Services Corporation (LSC), for the purpose of providing, facilitating, and furnishing legal and other assistance, through grant or contract, to veterans and others seeking recourse in the Court. That program, often referred to as the pro bono representation program, has been ongoing since that time, with LSC responsible for oversight and grant distribution responsibilities. The Appropriations Subcommittees consider LSC's budget request separately from the Court's budget request, although both are submitted together. The fiscal year (FY) 2022 LSC request in the amount of \$3,385,104, is attached at Appendix A.

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**APPROPRIATION LANGUAGE  
GENERAL AND SPECIAL FUND**

**SALARIES AND EXPENSES**

A total of [\$38,900,000] **\$41,700,000**, of which **\$38,314,896** will be used by the United States Court of Appeals for Veterans Claims for operations as authorized by 38 U.S.C. §§ 7251-7299. Provided further, that [\$3,286,509] **\$3,385,104** shall be transferred to the Legal Services Corporation to facilitate the furnishing of legal and other assistance in accordance with the process and reporting procedures set forth under this heading in Public Law No. 102-229.

## UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS PROGRAM JUSTIFICATION

### Court Caseload Trends and Variations

The U.S. Court of Appeals for Veterans Claims (Court) remains one of the busiest federal appellate courts based on the number of filings per active judge. Each active judge on the Court carries a substantial workload that includes rendering decisions on appeals, petitions, motions, applications filed pursuant to 28 U.S.C. § 2412 (the Equal Access to Justice Act), and a relatively new and growing class action caseload.

Appeals to the Court come from the pool of cases in which the Board of Veterans' Appeals (Board) has denied some or all benefits sought by claimants. From FY 1999 through FY 2004, when the Court had seven judges, approximately 200 cases per month were filed. Starting in FY 2007, the Court saw a sustained increase in that number, with an average of 376 cases filed per month. In late 2009 the Court's active judge authorization was temporarily increased to nine judges to respond to that caseload increase. A more recent surge in appeals that started in FY 2018 continued upward in FY 2019, with an average of 706 appeals filed per month. In FY 2020, that increase continued even further with nearly 750 appeals filed per month. The temporary authorization for nine judges was renewed by Congress and currently extends through 2025. The Court has kept pace with this historic caseload growth in large part due to the high percentage of cases resolved through the mandatory pre-briefing conferences conducted by staff attorneys of the Court's Central Legal Staff.

Historically, when the number of claims processed by the Board increases or decreases, the number of appeals filed with the Court will also increase or decrease. The Board continues to set high goals for rate and number of claims it decides. As a result, the Court expects to continue to receive a high volume of appeals. While we anticipate an expansive caseload, there is uncertainty regarding the impact of The Veterans Appeals Improvement and Modernization Act of 2017 (AMA) that was fully implemented in February 2019. The Court is starting to see some appeals of claims decided under that comprehensive revision to the agency's claims processing procedures but it is difficult to predict any trends at this time. While we are unsure what the impact of the AMA will be on case numbers, we anticipate novel legal issues will continue to arise. We are watching this closely. The chart below illustrates the number of cases filed at the Court as a percentage of the number of claims denied by the Board by fiscal year since FY 2011:

	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
BOARD TOTAL DENIALS	11758	9957	10142	11934	10628	9385	11371	17821	19430	22097
CASE FILINGS TO COURT	4085	3803	3734	4057	4894	4499	4296	7067	8750	8954
CASE FILINGS AS % OF DENIALS	34.7%	38.2%	36.8%	34.0%	46.0%	47.9%	38%	39.6%	45%	40.5%

## **Staffing Requirements**

The Court requests funding for 139 full-time equivalent (FTE) positions in FY 2022. This represents an increase of two additional positions over the FY 2021 FTE request. The two new positions are a staff attorney for the Court's Central Legal Staff (CLS), and a docket clerk for the Court's Public Office. These two positions are necessitated by the continued growth in the number of appeals being filed at the Court.

CLS staff attorneys conduct pre-briefing conferences in all appeals where the parties are represented. In addition, they prepare orders, memoranda, and vote sheet packets, and analyze cases for trends. Through their efforts, more than half of the Court's appeals reached a joint resolution in FY 2020. As the number of filings at the Court has increased the number of conferences has likewise increased. A proposed pilot program through which unrepresented appellants could participate in a pre-briefing conference through limited representation of a pro bono attorney promises to add to the CLS workload. The pace at which CLS has been operating cannot be sustained without an additional FTE.

Docket clerks in the Court's Public Office are responsible for case openings, case closings, and all docket entries. Since FY 2017 when the Court had a caseload of 4,040 cases until fiscal year 2020, the caseload of the Court has more than doubled to just under 9,000 cases. Given the expansive caseload we are experiencing, the Court needs additional docket clerk support. We are requesting one additional FTE for a docket clerk. We also plan to convert an existing mail clerk position to a docket clerk, from grade CS-7 to CS-9, to further increase our docket clerk capability.

## FISCAL YEAR 2020 PROGRAM

The Court's FY 2020 program accomplished the following:

Operated virtually in almost all respects from March 13, 2020, to the end of the fiscal year due to COVID-19.

Opened 9251 new cases, including appeals from decisions of the Board of Veterans' Appeals and petitions for extraordinary relief directed to the Court. During the same period, the Court disposed of 8737 cases through a combination of panel opinions, single judge decisions, and court orders. In addition, the Court ruled on thousands of motions and acted on approximately 6744 applications for attorney fees filed under the Equal Access to Justice Act. The Court also had litigants seek class action certification in several cases, with 4 requests filed, and classes certified in 2 cases.

Two new judges appointed to the Court late in the fiscal year began setting up and staffing their chambers.

The Court established a subcommittee of judges to assess the duties and responsibilities attendant to the authorized Special Master and administrative assistant positions.

Expended funds as necessary to staff and support the operations of the Court and ensured its continued proper functioning throughout the fiscal year.

Maintained and updated the Court's information technology (IT) infrastructure as necessary.

Obligated \$1,573,991 to fund the renovations for additional Senior Judge chambers and update the Court's IT office space. With the continued surge in the Court's caseload, the Court anticipates the need for robust recall of its retired judges. This reconfiguration and build-out captures training space on the Court's sixth floor that is no longer needed as a result of the Court's recent creation of flexible multi-use training space on the second floor. The sixth floor reconfiguration will also create better workspace for the Court's IT staff.

Received an Unmodified Opinion following its FY 2020 financial audit, which is the highest level of assurance that can be expressed. The Unmodified Opinion states that the financial statements are presented fairly in all material respects.

Continued agreements with the United States Marshals Service and the Federal Protective Service for Court security; the Department of Agriculture's National Finance Center for payroll/personnel services; the U.S. Department of the Treasury Bureau of the Fiscal Service for administrative payments, credit card, travel, and financial accounting and reporting services; and the Administrative Office of the U.S. Courts for Case Management/Electronic Case Filing (e-filing) system support.

Paid benefits from the Court of Appeals for Veterans Claims Retirement Fund (Judges' Retirement Fund) to retired judges and one survivor annuitant. Pursuant to 38 U.S.C. § 7298, funded the Judges' Retirement Fund in accordance with independent actuarial assessments.

Transferred appropriations to Legal Services Corporation for pro bono representation services in accordance with Public Law No. 102-229.

## **FISCAL YEAR 2021 PROGRAM**

The Court's FY 2021 budget request reflects the following:

Funding to staff and support the operations of the Court to ensure its continued proper functioning throughout the fiscal year, to include funding for nine active judges on the Court and three additional full-time equivalent (FTE) positions (a staff attorney and a paralegal for the Court's Central Legal Staff and a docket clerk for the Court's Public Office), as well as scheduled step increases, time-in-grade promotions for eligible employees, and a 3% cost of living allowance.

Funding to replace all network switches and to maintain and update as necessary the Court's information technology infrastructure.

Funding to reconfigure and build-out a section of existing Court space to accommodate additional law clerks, an additional recalled-retired Judge, and to better support IT staff.

Funding to audit the Court's financial statements.

Funding to continue the agreements with the United States Marshals Service and the Federal Protective Service for Court security; the Department of Agriculture's National Finance Center for payroll/personnel services; the U.S. Department of the Treasury Bureau of the Fiscal Service for administrative payments, credit-card, travel, and financial accounting and reporting services; and the Administrative Office of the United States Courts for Case Management/Electronic Case Filing (e-filing) system support.

Funding to reduce any unfunded liability in the Judges' Retirement Fund.

Funding to transfer to Legal Services Corporation for pro bono representation services in accordance with Public Law No. 102-229.

## **FISCAL YEAR 2022 PROGRAM**

The Court's FY 2022 budget request reflects the following:

Funding to staff and support the operations of the Court to ensure its continued proper functioning throughout the fiscal year, to include funding for nine active judges on the Court and two additional full-time equivalent (FTE) positions (a staff attorney for the Court's Central Legal Staff and a docket clerk for the Court's Public Office), as well as scheduled step increases, time-in-grade promotions for eligible employees, and a 3% cost of living allowance.

Funding for new servers and computers to sustain operations as equipment reaches end of life-cycle and end of support.

Funding for information technology services and updates, to include phase one migration of the Court's remote data storage backup facility to the cloud, acquisition of a web-based collaborative platform to enhance case management, and courtroom technology enhancements to facilitate hybrid in-person/remote argument participation.

Funding to audit the Court's financial statements.

Funding to continue the agreements with the United States Marshals Service and the Federal Protective Service for Court security; the Department of Agriculture's National Finance Center for payroll/personnel services; the U.S. Department of the Treasury Bureau of the Fiscal Service for administrative payments, credit-card, travel, and financial accounting and reporting services; and the Administrative Office of the United States Courts for Case Management/Electronic Case Filing (e-filing) system support.

Funding to reduce any unfunded liability in the Judges' Retirement Fund.

Funding to transfer to Legal Services Corporation for pro bono representation services in accordance with Public Law No. 102-229.

**SUMMARY OF FISCAL YEAR 2022 BUDGET REQUEST**  
**(in thousands of dollars)**

The FY 2022 budget request of \$41,700,000 reflects an increase of \$2,800,000 over the Court's FY 2021 budget authority. A summary of the FY 2022 funding request compared with the FY 2021 budget authority follows:

	<b>FY 2021 Budget Authority</b>	<b>FY 2022 Budget Estimate</b>	<b>Change</b>
<b>FTE Positions</b>	137	139	+2
<b>Personnel Compensation and Benefits</b>	\$22,002	\$22,697	+\$695
<b>Other Objects (Operating Expenses)</b>	\$9,111	\$8,318	-\$793
<b>Judges' Retirement Fund</b>	\$4,500	\$7,300	+\$2,800
<b>Pro Bono Representation Services (Grant)</b>	\$3,287	\$3,385	+\$98
<b>Budget Authority/Appropriation</b>	<b>\$38,900</b>	<b>\$41,700</b>	<b>+\$2,800</b>

**SUMMARY OF FISCAL YEAR 2022 PROGRAM FUNDING CHANGES**  
**(in thousands of dollars)**

**Personnel Compensation and Benefits: ..... + \$695**

This increase reflects the funding necessary to accommodate the salary and benefits expenses for the Court's 139 positions, to include nine active judges and chambers staff, as well as scheduled step increases, time-in-grade promotions for eligible employees, and a 3% cost of living allowance. A portion of the increase is attributable to the request for two new positions, a CS-14 Central Legal Staff attorney, and a CS-9 Public Office docket clerk. The Court will also convert a CS-7 mailroom clerk position to a CS-9 docket clerk position.

**All Other Objects (Operating Expenses): ..... - \$793**

The FY 2021 request to build-out senior judges' chambers was a one time request that is not repeated in FY 2022. That significant decrease is offset somewhat by a funding request for phase one migration of the Court's remote data storage backup facility to the cloud, acquisition of a web-based collaborative platform to enhance case management, and courtroom technology enhancements to facilitate hybrid in-person/remote argument participation. Additionally, the Court's judicial conference is scheduled for FY 2022, and funding is requested to support virtual access for participants as well as other necessary conference expenditures.

**Contribution to Judges' Retirement Fund: ..... + \$2,800**

This increase reflects the actuarial projection of the deposit necessary to fully fund the Judges' Retirement Fund pursuant to 38 U.S.C. § 7298.

**Pro Bono Representation Services (Legal Services Corporation Grant): ..... + \$98**

See Appendix A.

**TOTAL CHANGES: ..... + \$2,800**

**DETAILS OF FISCAL YEAR 2022 PROGRAM FUNDING CHANGES  
(in dollars)**

The following information provides details of the funding changes from FY 2021:

**PERSONNEL COMPENSATION & BENEFITS** **+ \$694,009**

This increase reflects the funding necessary to accommodate the salary and benefits expenses for the Court's 139 positions, to include nine active judges and chambers staff, as well as scheduled step increases, time-in-grade promotions for eligible employees, and a 3% cost of living allowance. A portion of the increase is attributable to the request of two new positions, a CS-14 Central Legal Staff attorney, and a CS-9 Public Office docket clerk.

CLS staff attorneys conduct pre-briefing conferences in all appeals where the parties are represented. Through their efforts, more than half of the Court's appeals reached a joint resolution in FY 2020. As the number of filings at the Court has increased, the number of conferences has likewise increased. The pace at which CLS has been operating cannot be sustained without an additional FTE.

Docket clerks in the Court's Public Office are responsible for case openings, case closings, and all docket entries. The rise in case filings increases the work of docket clerks making additional support necessary. Specifically, the Court needs one additional docket clerk FTE and also plans to convert an existing mail clerk position to a docket clerk position, from grade CS-7 to CS-9, to further increase our docket clerk capability.

**OTHER OBJECTS (OPERATING EXPENSES)** **- \$792,604**

**Travel** **+ \$0**

During the COVID-19 pandemic the Court canceled all travel-related activities. The decision to remain static in this category, however, is predicated on our anticipation that in FY 2022 the restrictions will be lifted.

**Transportation of things** **- \$5,000**

The decrease in this category results from a reduced need to fund judicial relocation expenses.

**Rental payment to GSA** **+ \$1,000,000**

The increase in this category is due to the expiration of a FY 2021 one-time new lease credit from the General Services Administration attributable to renewal of our lease.

**Rental payment to others** **+ \$0**

This category remains static.

**Communications, utilities, and miscellaneous charges - \$51,000**

The decrease in this category is attributable to the following cost-saving measures by the Court's Office of Information Technology (IT): The Court has acquired and integrated new technology to support the Court's requirements for voice communications, internet access, and links to data backup systems. As a result of these efforts, the Court has increased both surge capacity and capacity for future needs, improved the efficiency and effectiveness of data backup, and generally made these improvements at reduced cost to the Court.

**Printing & reproduction + \$0**

This category remains static.

**Purchases of Goods and Services from Government and Other Sources + \$163,396**

The increase in this category is associated with the services cost of funding for phase one migration of the Court's remote data storage backup facility to the cloud, acquisition of a web-based collaborative platform to enhance case management, and courtroom technology enhancements to facilitate hybrid in-person/remote argument participation. Additionally, the Court's judicial conference is scheduled for FY 2022, and funding is requested to support virtual access for participants as well as other necessary conference expenditures.

Funding in this category also covers the costs of necessary Court service contracts, such as agreements with the United States Marshals Service and the Federal Protective Service for Court and judicial security; the Department of Agriculture's National Finance Center for payroll/personnel services; the U.S. Department of the Treasury Bureau of the Fiscal Service for administrative payments, credit-card, travel, and financial accounting and reporting services; and the Administrative Office of the United States Courts for Case Management/Electronic Case Filing (e-filing) software and support.

**Leasehold Improvements - \$1,800,000**

The FY 2021 request to build-out senior judges' chambers was a one time request and is not repeated in FY 2022. The project was funded in FY 2020.

**Supplies & Materials + \$0**

This category remains static.

**Equipment****- \$100,000**

The decrease in this category results from a reduced need for furnishings for new judges' chambers and fewer information technology lifecycle hardware replacements. These decreases were offset to allow funding for the equipment costs of phase one migration of the Court's remote data storage backup facility to the cloud, acquisition of a web-based collaborative platform to enhance case management, and courtroom technology enhancements to facilitate hybrid in-person/remote argument participation. This category also includes the necessary funding to maintain current Microsoft Office 365 licenses and the software needed to deploy IT patches.

**CONTRIBUTION TO JUDGES' RETIREMENT FUND****+ \$2,800,000**

This increase reflects the actuarial projection of the deposit necessary to fully fund the Judges' Retirement Fund pursuant to 38 U.S.C. § 7298. The two primary factors that explain this requested increase are, first, the actuary's updated projection of the Court's obligation in light of the ages and expiration of terms of service of the Court's two new judges, and second, the reduced gains on investment due to lower interest rates on the government securities that comprise the Judges' Retirement Fund.

**PRO BONO REPRESENTATION SERVICES****(LEGAL SERVICES CORPORATION GRANT)****+ \$98,595**

See Appendix A.

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**TOTAL CHANGES****+ \$2,800,000**

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**PROGRAM AND FINANCING**  
(in thousands of dollars)

<b>CODE</b>	<b>OBLIGATIONS BY PROGRAM ACTIVITY</b>	<b>FY 2020 Actual</b>	<b>FY 2021 Budget Authority</b>	<b>FY 2022 Budget Estimate</b>
10.00	Total Obligations	\$35,397.8	\$37,100.0	\$41,700.0
	<b>BUDGETARY RESOURCES AVAILABLE FOR OBLIGATION</b>			
21.40	Unobligated balance available, start of year	-	-	-
22.00	New budget authority (gross)	\$35,400.0	\$37,100.0	\$41,700.0
22.30	Less: Unobligated balance expiring	\$2,222.2	-	-
23.95	New obligations	\$35,397.8	\$37,100.0	\$41,700.0
24.40	Unobligated balance available, end of year	-	-	-
	<b>NEW BUDGET AUTHORITY (GROSS) DETAIL</b>			
40.00	Appropriation	\$35,400.0	\$37,100.0	\$41,700.0
40.35	Appropriation rescinded	-	-	-
43.00	Appropriation (total)	\$35,400.0	\$37,100.0	\$41,700.0
	<b>CHANGE IN UNPAID OBLIGATIONS</b>			
72.40	Obligated balance, start of year	\$2,508.4	\$3,362.5	\$3,733.5
73.10	New obligations	\$35,511.2	\$37,100.0	\$41,700.0
73.20	Total outlays (gross)	-\$34,657.1	-\$36,729.0	-\$40,032.0
74.40	Obligated balance, end of year	\$3,362.5	\$3,733.5	\$5,401.5
	<b>OUTLAYS (GROSS), DETAIL</b>			
86.90	Outlays from new current authority	\$32,061.5	\$33,366.5	\$36,298.5
86.93	Outlays from current balances	\$2,595.6	\$3,362.5	\$3,733.5
87.00	Total outlays	\$34,657.1	\$36,729.0	\$40,032.0
	<b>NET BUDGET AUTHORITY AND OUTLAYS</b>			
89.00	Budget authority	\$35,400.0	\$37,100.0	\$41,700.0
90.00	Outlays	\$34,657.1	\$36,729.0	\$40,032.0

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**SALARIES AND EXPENSES**

**Object Classification (in thousands of dollars)**

<b>CODE</b>	<b>Direct Obligations</b>	<b>FY 2020 Actual</b>	<b>FY 2021 Budget Authority</b>	<b>FY 2022 Budget Estimate</b>
11.1	Full-time permanent	\$14,031.6	\$16,700.7	\$17,200.0
43.0	Interest	-	-	-
11.5	Other personnel compensation	\$307.1	\$222.0	\$222.5
11.9	Total personnel compensation	\$14,338.7	\$16,922.7	\$17,422.5
12.1	Civilian personnel benefits	\$4,495.9	\$5,079.8	\$5,274.0
13.1	Unemployment compensation	\$13.3	-	-
21.0	Travel and transportation of persons	\$26.3	\$110.0	\$110.0
22.0	Transportation of things	\$7.0	\$30.0	\$25.0
23.1	Rental payments to GSA	\$3,621.0	\$2,400.0	\$3,400.0
23.2	Rental payments to others	\$163.6	\$210.0	\$210.0
23.3	Communications, utilities, and miscellaneous charges	\$152.3	\$331.0	\$280.0
24.0	Printing and reproduction	\$0.8	\$10.0	\$10.0
25.2	Other services	\$1,967.6	\$1,860.0	\$1,938.4
25.3	Purchases of goods and services from government sources	\$1,000.0	\$950.0	\$1,000.0
25.4	Operation and maintenance of facilities	\$60.0	\$50.0	\$65.0
25.7	Operation and maintenance of equipment	\$251.2	\$240.0	\$260.0
26.0	Supplies and materials	\$143.3	\$220.0	220.0
31.0	Equipment	\$570.8	\$900.0	800.0
32.0	Leasehold Improvements	\$1,574.0	-	-
94.0	Contributions to Judges' Retirement Fund	\$4,313.0	\$4,500.0	7,300.0
41.0	Pro Bono Representation Services (Grant)	\$2,699.0	\$3,286.5	3,385.1
<b>99.9</b>	<b>Total obligations</b>	<b>\$35,397.8</b>	<b>\$37,100.0</b>	<b>\$41,700.0</b>

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**JUDGES' RETIREMENT FUND**

The United States Court of Appeals for Veterans Claims Retirement Fund (Judges' Retirement Fund or Fund), established under 38 U.S.C. § 7298, is used for judges' retired pay and for annuities, refunds, and allowances provided to surviving spouses and dependent children. Participating judges pay 1% of their salaries to cover creditable service for retired pay purposes and 2.2% of their salaries for survivor annuity purposes. Additional funds needed to cover the unfunded liability may be transferred to the Judges' Retirement Fund from the Court's annual appropriation. The Court's contribution to the Fund is estimated annually by an actuarial firm retained by the Court. The Fund is invested solely in government securities.

**JUDGES' RETIREMENT FUND**

(in thousands of dollars)

<b>Code</b>	<b>Description</b>	<b>FY 2020 Actual</b>	<b>FY 2021 Budget Authority</b>	<b>FY 2022 Budget Estimate</b>
	<b>Unavailable Collection Schedule:</b>			
01.00	Balance, start of year	\$49,743.0	\$52,224.0	\$54,724.0
	<b>Receipts</b>			
12.01	Earnings on investment	\$754.0	\$800.0	\$850.0
12.02	Employer contributions	\$4,313.0	\$4,500.0	\$7,300.0
12.03	Employee contributions	\$79	\$100.0	\$110.0
12.99	Subtotal, receipts	\$5,147.0	\$5,400.0	\$8,260.0
45.00	Offsetting collections (outlays)	-\$2,666.0	-\$2,900.0	-\$3,100.0
88.03	Total: Balances and collections	\$52,224.0	\$54,724.0	\$59,884.0
	<b>Appropriations</b>			
65.99	Judges' Retirement and Survivor Annuity Fund	-\$2,666.0	-\$2,900.0	-\$3,100.0
88.99	Balance, end of year	\$52,224.0	\$54,724.0	\$59,884.0

# APPENDIX A

January 19, 2021

The Honorable Margaret Bartley  
Chief Judge  
United States Court of Appeals for Veterans Claims  
625 Indiana Avenue, N.W., Suite 900  
Washington, D.C. 20004

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Denver, CO

Gloria Valencia-Weber  
Albuquerque, NM

Re: FY 2022 Budget Request for the Veterans Pro Bono Program

Dear Chief Judge Bartley:

This letter describes the activities of the Legal Services Corporation (LSC) regarding the veterans pro bono program pursuant to Public Law 102-229, Title I, Ch. II, 105 Stat. 1701, 1710 (Dec. 12, 1991). Congress appropriates funding for this program to the U.S. Court of Appeals for Veterans Claims (Court) with specific direction to provide those funds to LSC to make “grants and contracts” to “facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions” of, or other proceedings in, the Court. *Id.* LSC awards and oversees a calendar-year grant for those services.

The grantee, currently the Veterans Consortium Pro Bono Program (Consortium), has provided an annual recommended funding request, which LSC is not in a position to evaluate and which is provided to Congress along with the Court’s budget submission. LSC is not involved in the determination of the need for veterans pro bono legal services or the amount of the annual funding request. LSC’s role begins after Congress has appropriated funding and the Court has provided the funds to LSC. LSC then evaluates applications, awards the grant, and conducts grant oversight and follow-up activities.

LSC’s activities focus on ensuring that the grantee provides the assistance and performs the activities required by Public Law 102-229. LSC’s activities include, but are not limited to, the following:

- Reviewing and evaluating the Consortium’s annual renewal applications.
- Subjecting each grant award to Grant Assurances that specify conditions the Consortium must meet to receive the grant.
- Attending the meetings of the Consortium’s board of directors and reviewing copies of the Consortium’s budget and other reports the Consortium’s staff submit to the Consortium’s board. (Court staff also attend the board’s meetings and are provided these reports.)

- Conducting periodic, comprehensive, on-site reviews of the Consortium's operations. (Seven have been conducted since 1995. The most recent on-site review was in 2019.)
- Maintaining communications with the Consortium's board chair and executive director.
- Requiring the Consortium to submit copies of its annual audited financial statements to LSC's Office of the Inspector General (OIG) for review. The OIG has not identified any issues that require follow up for at least the last ten years.
- Requiring that the Consortium track and report any carryover fund balance of grant funds from one year to the next (by year and cumulative), and include that information in the program's annual budget request for submission to Congress.

Beginning with the 2015 grant year, and after consultation with the Court, LSC has added a 40% cap on the amount of funds that the Consortium may carry over as a fund balance from prior grants. Any carryover funds above that cap will be returned to LSC for reimbursement to the Court.

Based on these oversight activities, LSC has determined that the Consortium's services and operations have, in all prior years, met the requirements set forth in Public Law 102-229.

LSC last conducted a public competition for the calendar year 2016 grant. LSC received five applications in response to a November 2015 Request for Proposals. The applicants included the Consortium, a legal aid organization, a private practitioner, and two law schools. After a thorough review of all applications, we selected the Consortium for the 2016 grant. LSC has renewed the grant each year from 2017 through 2021. We expect the Consortium to apply for the grant for 2022.

Please let me know if you have any questions or require further information.

Respectfully yours,



Lynn Jennings  
Vice President for Grants Management

cc: Eva Armah, Chief Financial Officer, Budget and Finance Office  
United States Court of Appeals for Veterans Claims

**VETERANS PRO BONO PROGRAM**  
**FY 2022 FUNDING REQUEST, BUDGET, AND NARRATIVE**

**18 January 2021**

**INTRODUCTION**

The federal Veterans Pro Bono Program recruits and trains volunteer attorneys to provide assistance to financially qualified, unrepresented veterans and their family members, caregivers, or survivors who have filed veterans' benefits appeals at the U.S. Court of Appeals for Veterans Claims (Court). A goal of the federal Veterans Pro Bono Program is to offer representation before the Court to every financially eligible appellant with a meritorious appeal in order to ensure that each appellant attains the best possible outcome. Ensuring every appellant is represented also assists the Court in efficient processing of claims as the appellants have advocates to guide their claims through the complex appeals process. The Veterans Consortium (TVC) is an independent nonprofit organization that operates the federal Veterans Pro Bono Program (Program). 501c (3) entity founded in 1992, the organization enlists and maintains its TVC National Volunteer Corps to serve the eligible U.S. veteran population worldwide. To this day, its Executive Board maintains voting representation from its four founding Member Organizations: Paralyzed Veterans of America, Disabled American Veterans, The American Legion, and the National Veterans Legal Services Program. These four Veterans Service Organizations (VSO) continue to support and assist The Veterans Consortium in a shared mission to serve veterans and their loved ones. On behalf of the Court and our nation's defenders, the Program leads and sustains a collaborative effort with the Department of Veterans Affairs (VA), law firms, corporate legal departments, bar associations, law schools, solo practitioners, and other nonprofit organizations and mission partners that provide services to veterans, to develop broad capabilities and capacity for the services performed for appellants in need.

In response to a request by the Court, Congress established the Program via Public Law No. 102-229 to provide legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation before the Court. The Program is funded through a grant administered by Legal Services Corporation (LSC), which comes from an appropriation request submitted as part of the Court's appropriation request.

The Program is requesting an appropriation of new grant funds in the amount of \$3,385,104 for FY 2022, a 3% increase from the amount that was requested for FY 2021, based on projections of workload currently being experienced as explained herein. Thirty-five thousand dollars (\$35,000) of this amount is assumed for the estimated LSC grant administration cost, and the remainder of this amount is for Program operations. The Program's proposed budget for FY 2022 is included herein. Like all other organizations, TVC has been directly impacted by the COVID pandemic. The numbers contained herein reflect the changes TVC made to deal with the crisis, our best estimate as to what our operating environment will look like in FY 2022, and the funding required to support it.

On a related note, mission statistics herein are reported by government Fiscal Year (FY), in line with the reporting periods used by the Court and the Board of Veterans' Appeals (BVA). While the LSC-administered federal Veterans Pro Bono Program and the independent 501c (3) entity The Veterans Consortium both operate using Calendar Year (CY) cycles, the annual budget amounts submitted herein are for government FY 2022.

## **SIGNIFICANT STATISTICS FOR THE BOARD OF VETERANS' APPEALS, THE U.S. COURT OF APPEALS FOR VETERANS CLAIMS, AND THE FEDERAL VETERANS PRO BONO PROGRAM**

The Program continues to provide legal advice and assistance free of charge to a significant - and growing - number of unrepresented veterans in need and their qualified family members, caregivers, and survivors with active appeals at the Court. The Program is unique in that it successfully leverages the investment of the United States by annually obtaining millions of dollars' worth of *pro bono* representation for the veterans in need and their family members, caregivers, and survivors. For example, in FY 2020, volunteers across the U.S. participating in the Program provided *pro bono* legal and related professional services valued at more than **\$9 million** on behalf of appellants, and the annual value is more than twice that amount when one adds the calculated sum of lifetime care, benefits, and compensation regained by veterans and their loved ones.

As the Court is well aware, the number of appeals decided by the BVA generally serves as an indicator of potential appeals at the Court, and therefore potential *pro se* appellants that would need Program services. According to the latest annual report available (FY 2019), the Board increased its production of cases significantly and according to the Board's website, is projected to issue about 85,000 decisions in FY 2021. These expected increases in BVA activity will almost certainly result in a greater number of *pro se* appellants at the Court and in the pipeline for Program services. There is no indication of any significant slowdown for TVC's activities in FY 2022.

The Court's most recent (FY 2019) publicly available annual report states that there were 8,470 appeals (excluding writs) filed with the Court in FY 2018, a 24.5% increase over FY 2017, of which 27% were *pro se* at the time of filing, about the same rate as the past few years. The *pro se* rate has plateaued after dropping from its FY 2011 level of 54%. This decrease of the *pro se* rate has historically been a Program goal, and while this success is notable, there remains a very significant need for *pro bono* services for those veterans and their family members, caregivers, and survivors who remain unrepresented. Historically, when the number of claims processed by the Board of Veterans' Appeals (Board) increases or decreases, the number of appeals filed with the Court will also increase or decrease. The Board has continued to expand its staff with the goal of accelerating the rate and number of claims it decides.

The Program sent offers of assistance to all *pro se* appellants (100%) with appeals at the Court in FY 2020. In response to requests for its services in FY 2020, Program staff attorneys screened 1,025 appellate cases, and placed 819 of these cases (80%) with *pro bono* attorneys (and sometimes an in-house staff attorney in special circumstances), while continuing to manage and support more than 200 active cases placed in FY 2019. The remainder of these applicants were not able to receive services because their appeals either lacked legal merit or suffered from jurisdictional defects. Appellants not qualified for Program services were provided with detailed information about the reason for their status and referrals to other resources as appropriate.

A level of Program assistance is still available to these unqualified appellants, as well as other *pro se* appellants, through the Program's Limited Legal Assistance and Information Helpline. This Helpline guides unrepresented veterans and their family members through their appeals at the Court by providing limited legal assistance and information regarding: (1) the explanation of the Court's function, processes, and timelines; (2) the completion of Informal Briefs, Record Before the Agency (RBA) disputes, and other pleadings; and (3) the explanation of Court filings and decision memoranda.

The Helpline provides unrepresented appellants with the opportunity to produce informed and cogent pleadings to the Court, and allows the Court to process the appellants' filings more efficiently. It also affords the Program another way to offer unrepresented appellants additional program services. Since its inception in 2014, the Helpline has assisted hundreds of *pro se* appellants. In general, each year approximately 25% of these veterans applied for pro bono representation subsequent to utilizing the Helpline. The number of Helpline users is substantial, with more than 2,300 *pro se* appellant actions (letters, calls, emails) handled in FY 2020 (a 53% increase), and the Program anticipates even greater demand for Helpline services in FY 2022 due to the projected increase in activity at the BVA and the Court.

In addition to providing appellants at the Court with representation, counseling, or information about their cases, the Program also responded to inquiries from almost 3,900 veterans and their family members who were seeking information regarding the appeals process and directed to veteran's service officers (VSOs) and referrals for legal services unrelated to the Court, such as family or housing legal issues.

The Program anticipates that there will be an increase in requests for services in the future as indicators show that the BVA will continue to decide an even greater number of appeals to clear out backlogged cases, leading to more appeals filed with the Court. Furthermore, additional filings at the Court are expected as a result of appeals being filed by returning veterans who served in Iraq and Afghanistan, and the impact of recent appeals modernization legislation signed into law may also be additive to the appellate caseload in FY 2021.

#### **Select Federal Veterans Pro Bono Program Accomplishments in FY 2020**

- Won 613 appellate cases for clients, a success rate in Court of nearly 87.5%.
- Trained 482 attorneys and paralegals in veterans' appellate law to prepare them to provide volunteer services to federal Veterans Pro Bono Program clients and sustain the Court's bar.
- Provided 819 financially qualified veterans (a 17% increase) or their qualified family members, caregivers, and survivors, with free legal representation for their cases before the Court.
- Provided over 350 *pro se* appellants with information about their cases and other assistance after determining these cases could not be accepted for Program services.
- Handled over 6,000 inquiries from veterans and their loved ones about the federal Veterans Pro Bono Program services, the appeals process before the Court and before the VA, or referrals for local legal services such as family and housing matters.
- Supported hundreds of *pro se* appellants using the Limited Legal Assistance and Information Helpline, by handling more than 2,300 Helpline actions (a 50% increase).

From FY 1992 to the present day, the Program has helped more than 55,000 veterans and their family members, caregivers, and survivors meet their challenges. A total of over 5,000 volunteers have been trained in veterans' law, enabling more than 6,500 federal appellate cases to be placed with pro bono attorneys, who have achieved a lifetime 82.5% success rate in support of Program clients. The Program staff is committed to continue delivering this sustained level of support, plus handling the projected increased need from qualified appellants, to provide the best legal services, free of charge, to our nation's veterans in need and their qualifying families, caregivers, and survivors.

**BUDGET REQUEST DETAIL**

**1. Personnel Expenses**

**\$1,974,974**

A. The Program requests a modest increase of funds over FY 2021 costs, for projected increased labor costs, increases in medical benefits costs/inflation, and planned merit-based reviews. TVC makes cost effective decisions concerning the mix of in house and contracted personnel and will continue to do so. Most of the assistance provided to veterans and their family members is accomplished by personal contact. The Program actively undertakes direct contact with veterans and their loved ones to ensure they understand what is happening with their cases and the staff works to aid in any way possible. Salary and benefits for people performing daily services for the Program are paid from grant funds. This section addresses TVC employee costs only. Outside services are reflected in the Contract Services section herein.

**Table A**

<b>TVC PERSONNEL AND FTE DISTRIBUTION</b>		
<b>Program Components I through IV</b>	<b>Total Number of TVC Personnel Providing Services to the Program</b>	<b>Total FTE to be Requested Under the Grant</b>
	<b>FY2021</b>	<b>FY 2022</b>
I. Veterans and Dependents Outreach&Educ	2.0	2.0
II. Case Evaluation and Placement IV. Additional Program Services	10.0	11.0
III. Pro Bono Attorney Recruiting and Training<²>	2.5	2.5
Management and Administration<³>	1.5	1.5
<b>Total</b>	<b>16.0</b>	<b>17.0</b>

Table A above shows the number of Full-Time Equivalents (FTE) to be paid out of grant funds in FY 2021 and FY 2022. It includes full-time, part time, and temp-to-perm personnel of The Veterans Consortium Pro Bono Program staff. A detailed description by FY 2022 Program Component follows.

B. Veterans and Dependents Outreach & Education (Component I)

Personnel working for this Program Component conduct direct outreach to veterans and their loved ones or survivors to educate and inform them of Program services that are available. Activities range from working veterans outreach events, to website and social media and other communications activities, to mailing pamphlets, booklets, and other materials. These personnel also conduct outreach via partners and stakeholders, including Veterans Service Organizations, State and County veterans service officers, and a variety of federal, state, and local offices as well as through other non-profit organizations. Altogether these personnel comprise 2.0 FTE, and the Program requests continued funding for these positions in FY 2021.

C. Case Evaluation & Placement (Component II) & Additional Program Services (Component IV)

- The full-time Director of Case Evaluation & Placement and Staff Attorneys. The Component Director is the litigation lead and conducts senior case screening/management duties, oversees litigation strategy and mentoring, while providing supervision to the Component. The Component Director is also double hatted as the Deputy Executive Director for TVC. The Component also runs national outreach to law school clinical programs and manages related subgrants, manages the pro bono/low bono Independent Medical Review Program, and prepares lessons learned, after action reports, and special legal analyses. Two Staff Attorneys review the Records Before the Agency (RBA) and/or BVA decisions in each case to determine whether the case presents an issue that merits referral to a volunteer lawyer, and mentor volunteers. It is anticipated that we will add an additional one staff attorney. Staff attorneys also provide limited legal assistance to appellants without representation before the Court via the Helpline.
- The Veterans Law Specialist. One Veterans Law Specialist is also full-time and reviews the VA claims file and BVA decision. in each case to determine whether the case presents an issue that justifies referral to a volunteer attorney. The Veterans Law Specialist is one of the most experienced non-attorney practitioner/experts in the veterans' law field.
- The Program maintains six operations support positions. These include: one Client Services Director; two Paralegals/Docket Administrators who track all Court actions affecting clients and attorneys, and communicate status and monitor progress of cases; two Client Services associates; and, an Office Administrator. This team fields over 2,000 calls per month, receives and processes applications for Program services, conducts intake of clients, and refers veterans to in-house resources or vetted partners as appropriate.
- Altogether these personnel comprise 10.0 FTE, and the Program requests continued funding for these FTE in and one additional staff attorney in FY 2022. [Note: Subcontract FTE costs for direct representation and case mentoring are captured below in Paragraph 3, Third-Party Transfers, sub-paragraph B, Subgrants.]

D. Pro Bono Attorney Recruiting & Training and Case Placement (Component III)

All assigned personnel are expected to communicate Program services as members of Program's team and engage with both prospective clients and potential volunteers. Likewise, while any team member can arrange the placement of a veteran's case with a *pro bono* attorney, the cadre specifically dedicated to this task include one full-time Component Director, one full-time Coordinator and one part-time Attorney. Each year this team recruits and trains between 400 to 500 new volunteer attorneys and paralegals to help build the Court's bar and to grow the national capability and capacity in the area of veteran's law. Focused volunteer training and support for event-based surges in effort (generally regional trainings), as well as mentoring volunteers, is provided through a subgrant allocated to this function. Likewise, the full-time Director and Coordinator annually place over 800 cases before the Court. Altogether these personnel comprise 2.5 FTE, and the Program requests continued funding for these FTE in FY 2022. [Note: Subcontract FTE costs for Training and Support are captured below in Paragraph 3, Third-Party Transfers.]

2. **Project Expenses**

**\$375,770**

A. Travel	\$30,766
B. Equipment Rental & Telephone/Internet	\$37,236
C. Office Supplies & Communications & IT Software O&M	\$153,923
D. Online References & Continuing Education/Training	\$38,316
E. Volunteer Materials	\$47,380
F. Insurance Due, Fees, and Evaluation	\$68,149
G. Property Acquisition	\$0
<b>TOTAL FY 2022 PROJECT EXPENSES:</b>	<b>\$375,770</b>

A. Travel: Like all other organizations, TVC has been affected by the COVID 19 pandemic which severely impacted our travel in CY 2020 and we expect that will continue into CY 2021. We are anticipating a more normal travel environment for FY 2022 and these estimates are based on that assumption. The amount budgeted for Travel expenses relates to performing the core functions of the mission, including Outreach & Education to veterans and dependents, Recruiting & Training volunteer attorneys and related professionals, and attending professional development trainings/CLE for the Program staff. This is essential to the mission of the Program. Examples of targeted populations visited include veterans and their loved ones or survivors, volunteer attorneys, State & County veterans service officers/organizations, and law school clinics. Professional development focuses on the continuing education of Program staff which enables effective and efficient achievement of Program objectives. Federal guidelines were used for per diem, research of airfare and hotels to projected locations were used for those costs.

B. Equipment Rental & Telephone/Internet: The amount budgeted for Equipment Rental & Telephone/Internet includes expenses for postage/postage meter and office equipment repairs/maintenance. The office equipment includes postage that the Program uses daily for communication. The repairs and maintenance allocation are for the care of office equipment, such as printers, the copy machine, furniture, water cooler, etc., used in daily operations. Also included are high-speed internet connectivity and telephone capability.

C. Office Supplies & Communications & IT Software Maintenance Expenses: The amount budgeted for Office Supplies includes office supplies and expenses (paper, toner, envelopes, folders, archiving/storage, shipping, packaging, pens, pencils, folders, envelopes, labels, highlighters, tape, etc.). Expenses in this category also include advertising and promotion and website costs which relate to the outreach and education of veterans and their loved ones or survivors. This relates to one of the core missions of the Program which is to provide representation before the U.S. Court of Appeals for Veterans Claims and their families. Printing & editing funds are requested to cover the cost of editing and printing brochures, pamphlets, job aids, flyers, and forms that our eligible appellants use to learn about the Program and make decisions to choose our *pro bono* attorneys; that our volunteers read to learn how to join the Program; and that our Stakeholders/Partners (especially VSOs and State/County service officers) use to decide when to refer a veteran to the Program. Limited entertainment & meals expenses are invested in volunteer recruitment, training "lunch and learns," and stakeholder outreach and partnerships for outreach and education of veterans and their loved ones or survivors. Advertising/Promotion expenses include the costs of booth space/banner fees/sponsorship fees at outreach events assuming: four large events, six mid-size events, and some smaller events annually. Also included are ads in magazines and newspapers, and posters/awareness materials, with actual allocation to be determined during the procurement process.