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WASHINGTON, D.C. 20544

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MEMORANDUM TO: **CHIEF JUDGES, UNITED STATES COURTS**
 CIRCUIT EXECUTIVES
 CLERKS, UNITED STATES COURTS
 DISTRICT COURT EXECUTIVES
 CHIEF PROBATION OFFICERS
 CHIEF PRETRIAL SERVICES OFFICERS
 SENIOR STAFF ATTORNEYS
 CHIEF PREARGUMENT/CONFERENCE ATTORNEYS
 CIRCUIT LIBRARIANS
 BANKRUPTCY ADMINISTRATORS

SUBJECT: Budget Crisis in Fiscal Year 2005 and Beyond (**ACTION REQUIRED**)

The entire judicial branch of government faces the most serious funding challenge that I have seen during my 19 years as Director of the Administrative Office. We were unable to secure sufficient funds, even during the current fiscal year, to pay fully for the missions mandated by the Congress. Now we face the probability that the fiscal situation for FY 2005 will be far worse. Both the House and the Senate have passed budget resolutions that propose to freeze FY 2005 spending at FY 2004 levels, despite the fact that built-in costs will require a 6.1 percent FY 2005 increase for the courts just to stay even with FY 2004. In his FY 2005 budget sent to Congress, President Bush called for full funding for the judiciary. But this action has little practical significance since he is required by law to submit judicial branch budget requests to Congress "without change."

Far more meaningful for the judiciary at this time is the fact that the House and Senate have passed versions of the FY 2005 congressional budget resolution, both of which include a "hard freeze" in overall non-defense, non-homeland security spending. This does not necessarily mean that judiciary appropriations will automatically be frozen at FY 2004 levels, but there can be no doubt that the funds with which our appropriations subcommittees in Congress have to work will be severely constrained. Furthermore, there is a possibility that Congress could face a budget impasse in this election year and opt to pass a full-year continuing resolution to fund the government. By definition a continuing resolution is a hard freeze at last year's spending levels. Therefore, we must be prepared if a hard freeze is imposed on the judiciary by Congress and the President.

The Executive Committee of the Judicial Conference agrees that prudence dictates that courts develop contingency strategies. For planning purposes, courts should assume a hard freeze in FY 2005, which translates into allotments that are 10 percent below FY 2004 levels. At the same time, a cost-of-living adjustment (COLA) of as much as 3.5 percent, annualization of the FY 2004 COLA, and within-grade increases will add about 5 percent to court salary expenses, for a combined average shortfall of 15 percent next year.

We are doing all we can to obtain the fiscal year 2005 appropriations needed to enable the courts to operate effectively. Judicial Conference Budget Committee Chair Judge John G. Heyburn II, other Budget Committee members, other judges, and my staff and I are pulling out all the stops in our efforts to educate Congress of our critical needs and of the effect of an inadequate budget on judiciary operations. **You can assist in this effort by providing specific information on the impact of a hard freeze on your court in FY 2005 using the planning assumptions provided above.** Impact statements from individual courts will be invaluable as we seek congressional support for our position. **A memo will follow with instructions on how to submit impact statements electronically on the InfoWeb.** That memo will also provide guidance on assumptions to use in developing the impact statements.

The courts should also consider actions they can take in the remainder of FY 2004 that will best position them to cope with the real possibility of significant budget cuts in FY 2005. Prudent management decisions, including an immediate hiring freeze and other personnel actions, would allow courts to enter FY 2005 with reduced requirements. In addition, the Executive Committee of the Judicial Conference has just authorized the Administrative Office to provide another window for buyouts and early outs; details will be available shortly. Unfortunately, while courts have historically been able to rely on the Administrative Office to provide funding to address severe salary shortfalls and critical operational requirements, supplemental funding will be in very short supply in the second half of FY 2004. Although the traditional window for courts to request supplemental funding opened on April 15, only funding requests of a true emergency nature – the filing of highly complex cases, natural disasters, man-made destruction such as an act of terrorism, or other serious property damage – will be considered.

We look forward to receiving your impact statements. We are hopeful that once Members of Congress realize the potential for significant cutbacks to judiciary operations in their states and districts, they will provide the funding needed to avoid or at least minimize further adverse personnel actions. However, all court units need to begin planning now in the event this does not occur.



Leonidas Ralph Mecham

cc: All United States Judges