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FEDERAL PENSIONS

Judicial Survivors' Annuities System Costs and Benefit Levels



General Government Division

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The Honorable Orrin G. Hatch, Chairman
The Honorable Patrick J. Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable Henry J. Hyde, Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

This report was prepared in response to the requirements of the Federal Courts Administration Act of 1992 (P. L. 102-572) specifying that we review certain aspects of the Judicial Survivors' Annuities System (JSAS). JSAS is one of several survivor benefit plans applicable to particular groups of federal employees. It provides annuities to the surviving spouses and dependent children of deceased federal judges and other judicial officials who participate in JSAS.

The 1992 Act enhanced the benefits available from JSAS and reduced the amounts participating judges and other judicial officials were required to contribute toward the plan's costs. The act requires us to review the system's costs every 3 years and to determine whether the participants' contributions covered one-half of the costs. If the contributions are less than half of these costs, we are to determine what adjustments would be needed to achieve the 50-percent figure. The act also requires us to compare JSAS to the survivor benefit plans for other federal employees.

To respond to this requirement, we reviewed JSAS' 1993 to 1995 annual reports submitted by the Administrative Office of the U.S. Courts (AOUSC) to Congress and the Comptroller General. Such reports are required by Public Law 95-595 and contain financial and actuarial information indicative of JSAS' cost and financial status. Our analysis of the judges' share of JSAS costs was done for the first 2 full years of the 1992 Act, fiscal years 1994 and 1995. We did not use the fiscal year 1993 cost information for this part of our analysis because it was based on actuarial information as of September 30, 1992, and did not reflect the changes in participant benefits and contributions resulting from the 1992 Act, which became effective on October 29, 1992. The costs we examined were "normal costs." Normal cost is a term used to describe the annual cost of funding a

pension or survivor plan, expressed as a percentage of payroll. Our comparison of JSAS to other federal survivor benefit plans was based on a review of applicable federal statutes, regulations, and agency guidance as well as interviews with agency specialists. For this comparison, we chose those plans previously compared to JSAS in developing the 1992 Act—the Civil Service Retirement System (CSRS), including Members of Congress, the Military Retirement System’s Survivor Benefit Plan (SBP), the U.S. Tax Court Survivors’ Annuity Plan, and the U.S. Court of Veterans Appeals Judges Retirement Plan. We also included the Federal Employees Retirement System (FERS) because it covers a large number of federal employees. The Tax Court and Veterans Appeals judges plans are not administered by AOUSC.

Results in Brief

The participating judges did not pay one-half of the JSAS normal cost during fiscal years 1994 and 1995; they paid about 36 percent. Based on information contained in JSAS’ 1995 actuarial report, to cover one-half of the future costs, the judges’ contribution would need to increase 0.9 percentage points above the 2.2 percent of salary currently paid by active and senior judges and the 3.5 percent of annuities paid by retired judges. However, increasing required contributions could affect the judges’ rate of participation, and increasing participation was one of the major reasons for enhancing JSAS’ benefits and reducing the judges’ contributions in 1992.

JSAS’ benefits are greater than those available to the majority of federal employees. JSAS provides greater spousal and children benefits, expressed as a percentage of salary, than those for employees under CSRS, FERS, and the military’s SBP. JSAS benefits also are greater than those for Members of Congress. While a direct comparison of contribution rates for active participants among the plans could not be made because of differing program designs, retired judges under JSAS contributed a smaller percentage of their annuities for survivor benefits than retired general employees and Members of Congress under CSRS and FERS and retired members of the military. Two judicial plans in our study provided spousal and children’s benefits that were similar to JSAS. Also, JSAS included features that were not available in the other survivor plans we studied.

Background

Most federal civilian employees are covered by CSRS or FERS. Both these retirement plans include survivor benefit provisions. Three separate retirement plans apply to various groups of judges in the federal judiciary,

with JSAS being available to participants in all three retirement plans to provide annuities to their surviving spouses and children. AOUSC administers all four of these plans. The Judicial Retirement System automatically covers U.S. Supreme Court Justices, federal circuit and district court judges, and territorial district court judges, and is available, at their option, to the Administrative Assistant to the Chief Justice, the Director of AOUSC, and the Director of the Federal Judicial Center. The Judicial Officers' Retirement Fund is available to bankruptcy and full-time magistrate judges, and the Court of Federal Claims Judges' Retirement System is available to Court of Federal Claims judges. Except for judges who are automatically covered under the Judicial Retirement System, judges and judicial officials may opt to participate in CSRS or FERS rather than one of the other judicial plans if they were in either CSRS or FERS at the time of their appointment.

Judges who retire¹ under any of the three judicial retirement plans generally continue to receive the full salary amounts that they were paid immediately before retirement, assuming they met the age and service requirements. Retired territorial district court judges receive the same cost-of-living adjustment (COLA) increase that CSRS retirees receive, except that their annuities cannot exceed 95 percent of an active district court judge's salary. Court of Federal Claims judge retirees continue to receive the same salary payable to active Court of Federal Claims judges. Those in the Judicial Retirement System and the Court of Federal Claims Judges' Retirement System are eligible to retire at age 65 with 15 years of service. Those in the Judicial Officers' Retirement Fund are eligible to retire at age 65 with 14 years of service. The judicial officers under the Judicial Retirement System can retire with 80 percent of full salary at age 65 with 15 years of service. Participants in all three judicial retirement plans are required to contribute to Social Security and receive benefits.

JSAS was created in 1956 to ensure financial security for the families of federal judges. It provides benefits to eligible spouses and dependent children of judges who elect coverage within 6 months of taking office or within 6 months after getting married, if they are not married when they take office. Active and senior judges contribute 2.2 percent of their salaries, and retired judges contribute 3.5 percent of their annuities to JSAS. Upon a judge's death, the surviving spouse is to receive an annual annuity

¹There is a distinction between retired judges who resign their offices and those who retire to a status designated as "senior." Judges who retire by resignation are entitled for life to the salary of the office at time of resignation and may engage in private law practice. Judges who retire to senior status receive the current salary of the office and generally may perform reduced judicial duties. Senior judges may not engage in private law practice.

equal to 1.5 percent of the judge's average annual salary during the 3 highest paid years (known as the "high 3") times years of creditable service. The annuity may not exceed 50 percent of high 3 and is guaranteed to be no less than 25 percent. Separately, an unmarried dependent child under age 18, or 22 if a full-time student, receives a survivor annuity equal to 10 percent of the judge's high 3. COLAS are paid to surviving spouses and children based on annual increases in the Consumer Price Index (CPI). Spouses and children are also eligible for Social Security survivor benefits. Appendix I provides more details on these and other features of JSAS.

Since its inception in 1956, JSAS has changed several times. Because of concern that too few judges were participating in the plan (74 percent of federal judges participated in 1985, down from 90 percent in 1976),² Congress made broad reforms effective in 1986 with the Judicial Improvements Act of 1985 (P. L. 99-336). The act (1) increased the annuity formula for surviving spouses from 1.25 percent to the current 1.5 percent of high 3 for each year of creditable service and (2) changed the provisions for surviving children's benefits to relate benefit amounts to judges' high 3 rather than the specific dollar amounts provided by the Judicial Survivors' Annuities Reform Act (P. L. 94-554) in 1976. In recognition of the significant benefit improvements that were made, the 1985 Act increased the amounts judges were required to contribute from 4.5 percent to 5 percent of their salaries and retirement annuities.

The 1985 Act also changed the requirements for government contributions to the plan by specifying that the government would contribute whatever amounts were necessary (up to a maximum of 9 percent of participating judges' salaries and annuities) to keep the plan fully funded. Under the 1976 Act, the government matched the judges' contributions of 4.5 percent of salaries and annuities. Despite the benefit improvements in the 1985 Act, the rate of participation in JSAS continued to decline. In 1991, it was about 40 percent overall and 25 percent for newly appointed judges.

In response to concerns that required contributions of 5 percent may have been creating a disincentive to participation,³ Congress enacted the Federal Courts Administration Act of 1992. Under the act, participants' contribution requirements were reduced to 2.2 percent of salary for active and senior judges and 3.5 percent of annuities for retired judges. For those already enrolled in JSAS, the new rates were further reduced by

²H. Rep. 99-423, 99th Congress.

³H. Rep. 102-1006, 102d Congress.

0.5 percentage point for every month, not to exceed 18 months, during which they had contributed 5 percent. In other words, the rate for an active judge could be reduced to 1.7 percent and 3 percent for a retired judge for up to 18 months. Another significant change was an increase in benefits for survivors of retired judges. This increase was accomplished by including years spent in retirement⁴ in the calculation of creditable service and high-3 salary averages. The act also allowed the judges to stop contributing to the plan upon divorce or the spouse's death and granted benefits to survivors of any judge who died in the interim between leaving federal service and the commencement of a deferred annuity.⁵ As of September 30, 1995, there were 1,263 active and senior judges, 109 retired judges, and 221 survivor annuitants covered under JSAS. About 67 percent of all eligible judges participated in the system in 1995, including 73 percent of all new judges who began service in 1995.

One objective of the change in contribution requirements contained in the 1992 Act was to preclude the circumstances that had frequently occurred under the 1985 Act, whereby the participating judges paid all of the plan's cost. In 3 of the 4 years before the 1992 Act, the government made no contributions to JSAS because the participants' 5 percent of salary and annuity contributions were sufficient to cover the costs for those years. In 1991, the cost of JSAS was estimated to be 3.2 percent of salary and annuity. Proponents of lowering the contribution rates contended that participants in CSRS, including Members of Congress, were paying about one-half of the costs of their survivor benefits, and Congress intended to make JSAS comparable to the cost of participation by a Member of Congress.

Scope and Methodology

To determine whether the contributions by the participating judges for the 3-year period ending in fiscal year 1995 accounted for 50 percent of JSAS' costs, we first identified the costs for plan years 1993 to 1995. We used the normal cost amounts determined by actuarial valuations of the system for each of the 3 fiscal years. Normal cost is the term used to describe the annual cost of a pension or survivor plan. It is expressed as a percentage of payroll and represents the amount of money that should be set aside during employees' working years that, with investment earnings, will be sufficient to cover future benefit payments. It applies to future benefits being earned during current employment, not payments to current

⁴Includes senior judges and judges who resign their offices.

⁵A judge who is not entitled to receive an immediate retirement annuity upon leaving office, but is eligible to receive a deferred retirement annuity at a later date, may remain in JSAS by contributing 3.5 percent of the deferred retirement annuity that the judge would be entitled to receive.

annuitants. Therefore, if participating judges were to pay one-half the cost of JSAS, they would pay one-half the plan's normal cost.

Information on JSAS' normal cost and other actuarial and financial matters is contained in annual reports submitted by AOUSC to Congress and the Comptroller General. Such reports are required by Public Law 95-595 for all federal retirement plans. These reports (595 Reports) are due 210 days after the end of each plan's fiscal year. AOUSC provided to us a final version of the 595 Report for fiscal year 1995 on April 8, 1997.⁶ We discussed the contents of the reports with officials from AOUSC but otherwise relied on the data presented in the annual reports for the 3 fiscal years without independent verification. We also obtained the services of an enrolled actuary, Mr. Jess Feinman, to assist us in analyzing the reports and making the required determinations about the share of costs covered by participant contributions, including the adjustment needed to achieve the 50-percent figure for the participating judges.

To compare the features of JSAS with those of other federal survivor benefit plans, we reviewed applicable federal statutes, regulations, and agency guidelines and interviewed agency specialists for the various plans. We also met with actuaries at the Office of Personnel Management (OPM) and the Department of Defense. We reviewed the annual reports filed under Public Law 95-595 for all plans in the comparison.

We identified and compared the benefit levels, contribution rates, and other features of JSAS and five other federal survivor benefit plans. We compared JSAS benefit levels to the other plans' survivor benefit levels without Social Security survivor benefits. Total survivor benefit levels for those eligible to receive Social Security benefits will be greater than those levels reported in our comparison. We compared retiree contribution rates only. The differing designs of the various programs precluded us from making a comparison of total employee and retiree contribution rates. Two of the plans in our study do not have separate and identifiable employee contribution rates for survivor benefits. Appendix I describes the features of the six federal survivor benefit plans in our study.

⁶Although the Federal Courts Administration Act of 1992 mandated us to report to Congress by November 29, 1995 (60 days after the end of fiscal year 1995), we informed the addressees of our report in November 1995 that the 595 Report for fiscal year 1995 would not be available until after our statutory reporting date (the 595 Report was due by Apr. 28, 1996). We were unable to complete our work until we received the 595 Report for fiscal year 1995. In February 1997, we again informed the addressees that the 595 Report had not been finalized, and we would fulfill our reporting requirement using the draft 595 Report provided to us by AOUSC on October 24, 1996, if the final 595 Report was not provided by the end of February 1997.

The five plans in our comparison were CSRS and FERS (including Members of Congress), the Military Retirement System's SBP, the U.S. Tax Court Survivors' Annuity Plan, and the U.S. Court of Veterans Appeals Judges Retirement Plan. We selected these five plans because (1) four of them (not FERS) were compared to JSAS in the legislative history of the Federal Courts Administration Act of 1992 and (2) CSRS, FERS, and the Military Retirement System cover about 97 percent of all participants in federal retirement plans and, like JSAS, the U.S. Tax Court and U.S. Court of Veterans Appeals plans cover judicial workforces.

We made our review from October 1995 to February 1997, in accordance with generally accepted government auditing standards. We made a draft of this report available to the Director of AOUSC for review and comment. AOUSC's comments are reprinted in appendix II. Although we did not obtain comments from the other agencies on the survivor benefit plans included in our review, we asked officials responsible for each of these other plans to verify the accuracy of the information presented on their respective plans. Their views were considered in preparing this report.

Judges Did Not Contribute One-Half of JSAS' Cost

For JSAS' first 2 full years (1994 and 1995) under the Federal Courts Administration Act of 1992, the participating judges contributed about 36 percent of the plan's costs. Fiscal year 1993 cost did not reflect the changes in contribution rates and benefits incorporated by the 1992 Act. To cover one-half of JSAS' costs, the participating judges' contribution would have to increase 0.9 percentage points above the current rates. This could be achieved by distributing the increase equally among those contributing 2.2 percent and 3.5 percent or adding the increase solely to those paying 2.2 percent. 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 changes to JSAS in 1992.

Defining Cost for JSAS

The cost of a retirement or survivor benefit plan is generally not measured by annual expenditures. Such expenditures are not an indicator of the overall long-term total cost of a plan. For the 3-year period ending September 30, 1995, the participating judges paid \$12.5 million, and the government's actual outlays were \$6.9 million. Although judges' payments were made in the same year they were accrued, the government's payments were based on actuarial valuations that occurred 1 to 2 years before the appropriation year. The government's contribution of \$6.9 million in fiscal year 1995 was based on the actuarial calculation for

employer normal cost as of September 30, 1993. There were no government contributions for 1993 and 1994 because the actuarial valuation for the applicable prior years (before the 1992 changes to participant benefits and contributions) showed that the participants' contributions covered the entire normal cost of JSAS.

The more complete and acceptable calculation of a plan's cost is the total projected outlays to retirees or survivors, considering the current participants and allocating such cost on an annual basis. This annual cost allocation is the normal cost. Normal cost, expressed as a percentage of payroll, for JSAS represents the amount of money that should be set aside during the judges' working and retirement years that, with investment earnings, will be sufficient to cover future survivor benefit payments. Normal cost calculations, prepared by an actuary, require that many actuarial assumptions be made about the future, including mortality rates, quit rates, return on investments, salary increases, and COLA increases over the lifespans of current and future participants.

There are many acceptable actuarial methods for calculating normal cost.⁷ JSAS uses the aggregate cost method. Regardless of which cost method is chosen, the total long-term cost of the plan will be the same; however, year-to-year costs may differ depending on the cost method used. The aggregate method ordinarily incurs higher annual cost in the early years and lower cost in the later years, whereas the more commonly used entry-age normal method gives a level annual cost over the years. One of the principal reasons for this is that the aggregate method includes the unfunded liability for participants' past service (for which no contributions were made at the time service was performed) as part of its normal cost, while the entry-age normal method treats the unfunded liability separately from the normal cost.

JSAS Costs for the 3-Year Period

On the basis of data from the first 2 full years under the Federal Courts Administration Act of 1992, fiscal years 1994 and 1995, the participating judges contributed about 36 percent of JSAS' normal cost; and the government's share amounted to about 64 percent. For fiscal year 1993, the government's normal cost was based on an actuarial valuation that preceded changes in participant benefits and contributions. Thus, the fiscal year 1993 normal cost was not indicative of the government's share of JSAS' cost under the 1992 Act. Table 1 shows the judges' and

⁷Acceptable actuarial cost methods for preparing the annual reports required under Public Law 95-595 include the accrued benefit (unit credit), entry-age normal, individual level premium, aggregate, attained-age normal, and frozen initial liability.

government's contribution rates and share of JSAS' normal cost (using the aggregate cost method), for the period covered in our study.⁸

Table 1: Share of JSAS' Normal Cost Borne by Participating Judges and Government, Fiscal Years 1993-1995

Source of contributions	Contributions to JSAS						
	Fiscal year 1993		Fiscal year 1994		Fiscal year 1995		Fiscal years 1994-1995
	Rate ^a	Share ^b	Rate ^a	Share ^b	Rate ^a	Share ^b	Share ^b
Judges	2.35%	74.6%	2.24%	37.7%	2.23%	34.2%	35.8%
Government	0.8% ^c	25.4%	3.7%	62.3%	4.3%	65.8%	64.2%
Totals	3.15%	100.0%	5.94%	100.0%	6.53%	100.0%	100.0%

^aNormal cost expressed as a percentage of payroll.

^bPercentage of total normal cost.

^cThe government's normal cost for fiscal year 1993 was based on the September 30, 1992, actuarial valuation that preceded benefit and contribution changes to JSAS on October 29, 1992.

Source: JSAS actuarial reports, 1993-1995.

The judges' and government's contribution rates for each of the 3 years, shown in table 1, were based on the actuarial valuation that occurred at the end of the prior year. For example, the judges' contribution of 2.23 percent and the government's contribution of 4.3 percent in fiscal year 1995 were based on the September 30, 1994, valuation contained in the fiscal year 1994 actuarial report. The contribution rates for the judges were the expected contributions for the upcoming year excluding any purchase of prior creditable service at 3.5 percent or any reduction of 0.5 percentage point in the contribution rates, up to 18 months, for those judges who were enrolled in JSAS on October 29, 1992, the effective date of the 1992 Act.

Although JSAS uses the aggregate cost method to determine normal cost,⁹ officials from AOUSC contended that the entry-age normal cost method was a more appropriate measure to determine whether the participating judges were paying one-half of JSAS' costs. Their reasoning was that when the judges' share of the costs was determined in 1992, comparable costs were calculated for general employees and Members of Congress under the CSRS survivor benefit programs. It was estimated that these CSRS participants

⁸Although outside the scope of our study, the fiscal year 1996 normal cost was 6.26 percent, a drop of 0.27 percentage points from fiscal year 1995. However, the judges' contributions to JSAS for fiscal year 1996 remained at about 36 percent of normal cost.

⁹AOUSC selected the aggregate cost method for JSAS in 1982.

were paying about one-half of the costs. CSRS uses the entry-age normal cost method, which treats separately the unfunded liability for participants' past service and provides a relatively constant year-to-year annual cost.

Based on information provided by JSAS' enrolled actuary, if the entry-age normal cost method were used to determine JSAS' normal cost, the participating judges would have contributed 38 percent of JSAS' normal cost, or 2 percentage points more than under the aggregate cost method, for the same 2-year period. This calculation was based on an estimated entry-age normal cost of 5.96 percent for 1994 and 1995.

Adjustment That Would Be Needed in Judges' Contribution Rates

How much of an adjustment that would be needed to the judges' contribution rates depends on which actuarial method for calculating normal cost is used and the distribution of the adjustment among the active and retired judges. Based on the information contained in JSAS' 1995 actuarial report, as of September 30, 1995, the participating judges' future contributions would have to increase a total of 0.9 percentage points above the current 2.2 percent of salary for active and senior judges and 3.5 percent of annuity for retired judges to cover one-half of JSAS' costs. If the increase were distributed equally among the judges, those contributing 2.2 percent would have to increase to 3.1 percent; and those contributing 3.5 percent would have to increase to 4.4 percent.

If the entry-age normal cost method were used to determine normal cost, the participating judges' contributions would have to increase a total of 0.7 percentage points to achieve the 50-percent figure. To ensure that the increase is distributed equally among the judges, those contributing 2.2 percent would have to increase to 2.9 percent; and those contributing 3.5 percent would have to increase to 4.2 percent.

Because of the relatively small number of judges contributing 3.5 percent (109 compared to 1,263 of those contributing 2.2 percent as of September 30, 1995), the entire increase could be added solely to those contributing 2.2 percent. Therefore, the 2.2 percent could be increased by 0.9 percentage points under the aggregate method and 0.7 percentage points under the entry-age normal method.

Potential Drawback to Increasing Judges' Contribution Rates

A potential impact associated with increasing the contribution rates could be a decline in the participation rate for JSAS. Increasing participation was a major reason for the changes to JSAS over the years. The participation

rate had increased from 38 percent before the 1992 Act was enacted to 67 percent as of September 30, 1995. Increasing the contribution rates now, along with the potential for changing them every 3 years, could have an impact on the judges' decision to participate in JSAS. In a booklet describing retirement benefits to the judges, AOUSC said that, if the contribution rates were to change, it would ask Congress for an opt-out provision for the judges already covered under JSAS. Currently, the only way that participation for an active or retired judge may be revoked is upon dissolution of the marriage, and there are no contribution refunds until the judge's death, if there are no survivors.

Comparison of JSAS to Other Federal Survivor Plans

Based on our comparison of JSAS to the five other federal survivor benefit plans in our study, we found that JSAS generally provides greater benefits. JSAS provides greater survivor spousal and children's benefits than the nonjudicial survivor plans in our study—CSRS, FERS, and the military's SBP. Members of Congress earn greater spousal benefits than general employees under CSRS and FERS, but these benefits are still less than JSAS benefit levels. Moreover, while a direct comparison of JSAS participant contributions to the other survivor plans in our study cannot be made because of differing program designs, we found that retired judges under JSAS, Tax Court, and Court of Veterans Appeals survivor plans contributed a smaller percentage of their retirement annuities than retirees under CSRS and FERS, including Members of Congress and the military's SBP.

We also found other JSAS features that were unique to JSAS or not available in all of the other plans. These included counting retirement years in the spousal benefit formula, refunding contributions to the participants' estates if there are no survivors, and lower interest rates on purchasing prior years creditable service.

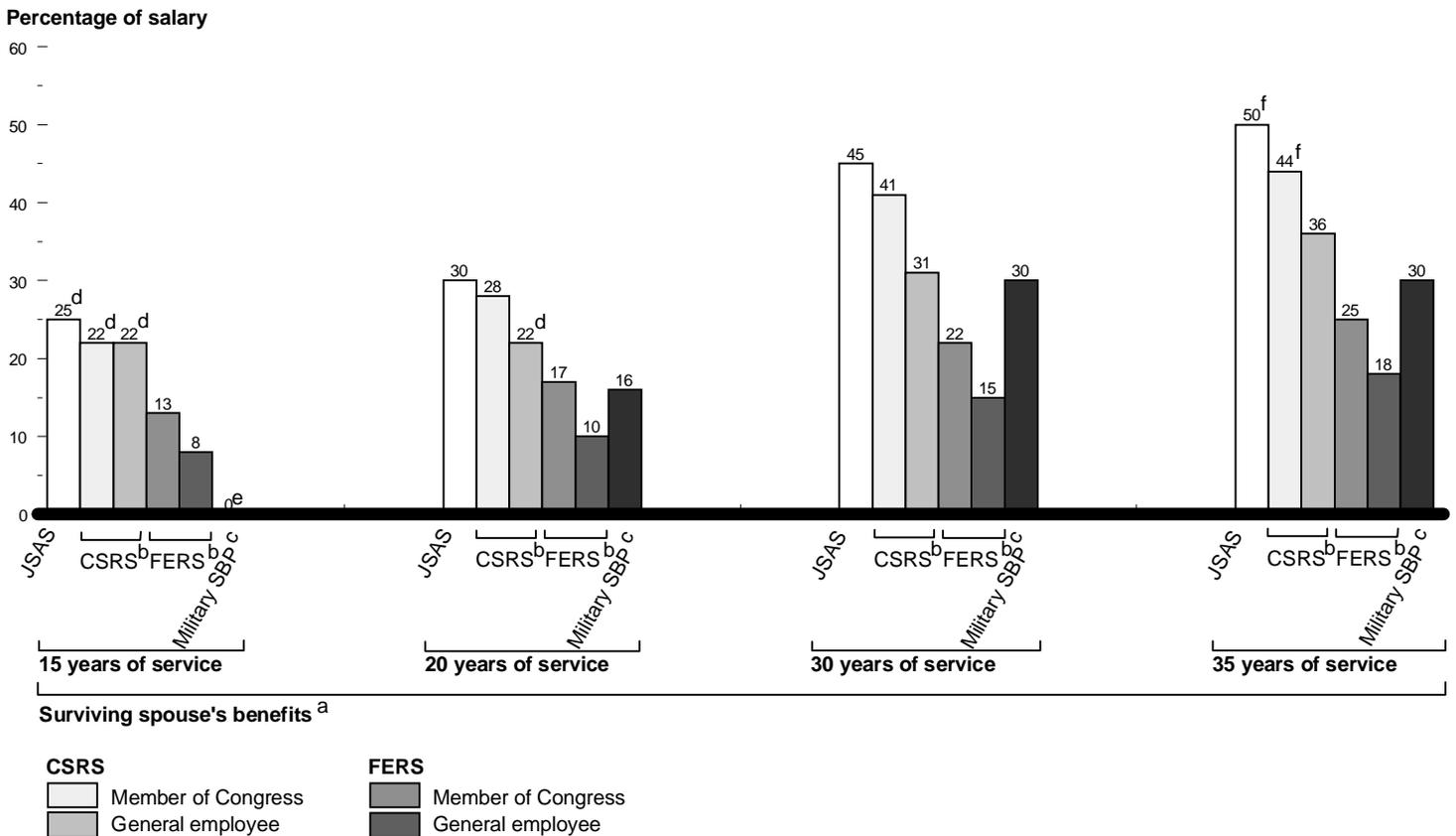
JSAS Spousal and Children's Benefits Are Greater Than Those of Nonjudicial Plans

JSAS spousal survivor benefits are greater than those provided by CSRS, FERS, or the military's SBP. Children's benefits are also higher under JSAS. The Tax Court and Court of Veterans Appeals plans provide spousal and children benefit levels that are similar to those of JSAS because the benefits formulas are basically the same.

Figure 1 shows the spousal benefit replacement rates at various years of creditable service for JSAS and the nonjudicial survivor plans that we studied. The replacement rate is the initial survivor annuity computed as a percentage of annual salary before retirement. For participants with

comparable years of service, JSAS always provides greater survivor benefits. While Members of Congress earn greater survivor benefits than do general employees in CSRS or FERS, Members' survivor benefits are still less than JSAS benefits.

Figure 1: Comparison of Spousal Benefit Replacement Rates Among Selected Plans



^aDoes not include Social Security survivor benefits. Thus, total benefit levels to JSAS, CSRS Members of Congress, and FERS survivors will be greater than the levels reported in this table. Social Security provides a higher replacement rate for the survivors of lower wage earners than higher wage earners.

^bMaximum amount based on survivors' benefit formula for active or retired employee.

^cComputations are based on (1) member's service beginning after July 31, 1986, (2) surviving spouse under age 62 (at age 62, SBP benefits are reduced to 35 percent of retirement pay to reflect availability of Social Security benefits), and (3) regular military compensation, which is considered to be the military equivalent of federal civilian pay. Regular military compensation includes basic pay, tax-free subsistence and housing allowances, and the federal tax advantages accruing from the tax-free allowances.

^dMinimum guaranteed amount. In CSRS, the guaranteed minimum surviving spouse benefit applies only to active employees and Members. There is no guaranteed minimum surviving spouse benefit for CSRS retirees.

^eNo SBP benefits are available to survivors of military members with fewer than 20 years of service unless the member is retired for disability or a specially enacted early retirement program.

^fMaximum allowable amount.

Source: Survivor benefit plans data.

JSAS Survivor Benefits

JSAS spousal survivor benefits are equal to 1.5 percent of the judge's average annual salary received during the 3 highest paid years (known as the "high 3") for each year of creditable service, which includes employment and retirement. Regardless of years of service credits, the minimum benefit is 25 percent of high 3, and the maximum benefit is 50 percent of high 3. It takes 33 years and 4 months of creditable service to earn a survivor benefit equal to 50 percent of high 3. It would take 16 years and 8 months of creditable service to earn a survivor benefit of 25 percent of high 3 were it not for the guaranteed minimum. Judges and their survivors are also eligible for Social Security benefits in addition to JSAS benefits.

CSRS Survivor Benefits

CSRS survivor benefits for general employees are based on actual or accrued annuity amounts, not high-3 salaries. The maximum retirement annuity is 80 percent of high 3, which can be reached with 41 years and 11 months of service. The survivor benefit is 55 percent of the annuity. Therefore, the maximum survivor benefit is 44 percent of high 3. If an employee worked 33 years and 4 months—the creditable years of service required for JSAS survivors to receive 50 percent of high 3—the CSRS survivor benefit would be 34.6 percent of high 3.

Unlike JSAS, CSRS does not guarantee a minimum survivor benefit for retirees. However, it does have a minimum for active employees, 22 percent of high 3. Survivor benefits greater than 22 percent of high 3 are available only after about 21 years and 10 months of service, compared with 16 years and 8 months a JSAS participant must work and/or be retired to earn survivor benefits greater than 25 percent of high 3. It would take a CSRS employee 24 years and 8 months of service to earn a survivor benefit of 25 percent of high 3. Unlike the other five survivor plans in our study,

CSRS general employees generally receive no Social Security benefits (regular or survivor) from their federal service.¹⁰

CSRS Member of Congress Survivor Benefits

The maximum retirement annuity for Members of Congress under CSRS is 80 percent of the higher of high 3 or final salary. The survivor benefit formula is the same for Members as for general employees; therefore, 44 percent of high 3 or final salary is also the maximum survivor benefit for Members. However, a Member can reach the 80 percent annuity maximum after 32 years of service because the percentage of salary used in the retirement formula is higher. Therefore, even though a Member can never earn a survivor benefit as large as a judge under JSAS, he or she can earn the maximum survivor benefit 1 year and 4 months sooner than the judge. Under CSRS, Members can earn more than the guaranteed 22 percent minimum survivor benefit by working longer than 16 years. Members would have to work 18 years and 2 months to earn a survivor benefit equal to the 25 percent of high 3 guaranteed by JSAS.

FERS Survivor Benefits

The FERS defined benefit plan for general employees has no maximum or minimum survivor benefits. FERS is a three-part retirement package that includes (1) a defined benefit plan, (2) a Thrift Savings Plan¹¹ (TSP), and (3) Social Security. For deceased employees, the survivor benefit is a lump-sum payment, currently \$21,335 plus one-half the higher of the employee's high 3 or salary at the time of death, and, if the employee had at least 10 years of service, an annuity equal to 50 percent of the employee's accrued annuity. Survivors of retirees receive either 50 or 25 percent of the retiree's annuity, depending on the amount of annuity reduction the retiree elects. For the FERS defined benefit plan to provide a survivor benefit equal to 25 percent of high 3—the minimum guaranteed by JSAS—an employee would have to work 45 years and 6 months. It would

¹⁰Relatively few federal employees are covered by CSRS and Social Security at the same time. These employees participate in the "CSRS Offset" plan. They are employees who were rehired into federal service after 1983 with a break in service of more than 1 year but had at least 5 years of creditable civilian service at the time they separated from service and chose not to participate in FERS. Employees pay the Social Security tax plus a small contribution to CSRS, which equates to the regular CSRS employee contribution of 7 percent. At age 62, CSRS Offset retiree annuities are reduced to reflect the availability of Social Security benefits.

¹¹TSP is a tax-deferred retirement savings and investment plan, similar to what private corporations offer their employees under 401(k) plans. For each employee covered by FERS, including Members of Congress, the government contributes 1 percent of salary to the employee's TSP account. The government contributes additional amounts to match any contributions the employee makes to TSP. The government matches, dollar-for-dollar, employee contributions up to 3 percent of salary and 50 cents on the dollar for each of the next 2 percent of salary the employee contributes. Employees may contribute another 5 percent of salary to TSP with no government matching.

Most judges and Members of Congress and general employees in CSRS may participate in TSP. They can contribute up to 5 percent of their salaries to TSP, but the government makes no contribution to their accounts. Tax Court judges and military members cannot participate in the TSP.

take over 90 years of service to provide a survivor benefit equal to 50 percent of high 3—the maximum available after 33 years and 4 months in JSAS.

The TSP component of FERS, to which most employees and the government contribute, has no survivor benefits as such. If a participant dies before withdrawing all his or her account balance, the survivors receive the remainder. A spousal waiver is generally required for withdrawals other than a joint life annuity. If the retiree purchases a 100 percent joint life annuity with spouse,¹² the retiree's annuity is actuarially reduced to cover the full cost of the survivor benefit. In any event, TSP pays the same total amounts to retirees and survivors as would have been paid to the retiree alone.

FERS employees and their survivors also receive Social Security benefits. If the surviving spouse is not eligible for Social Security benefits, a special supplementary annuity is provided that approximates the value of FERS service in a Social Security benefit. Like JSAS, Social Security spousal survivor benefits are completely additive to spousal survivor benefits under the FERS defined benefit plan. However, unlike JSAS, Social Security benefits for surviving children are deducted, dollar-for-dollar, from FERS benefits.

FERS Member of Congress Survivor Benefits

Similarly, the FERS defined benefit plan for Members of Congress has no maximum or minimum survivor benefits. It would take 36 years of service for a Member to earn survivor benefits equal to the guaranteed minimum of 25 percent of high 3 available under JSAS. It would take 86 years of service for a Member to earn survivor benefits of 50 percent of high 3—the maximum under JSAS—that a judge can earn in 33 years and 4 months of work and retirement.

Military SBP Survivor Benefits

Under the military's SBP, if the member dies with 20 years or more of service, the full spousal annuity is 55 percent of the member's retirement pay, with a minimum of 35 percent and maximum of 55 percent of retirement pay. After the surviving spouse reaches age 62, SBP benefits are reduced to 35 percent of retirement pay to reflect the availability of Social Security benefits. For those members who die before completing 20 years, protection is available through a survivors' program for service-related deaths administered by the Department of Veterans Affairs, Social Security benefits, and/or life insurance.

¹²A 50 percent joint life annuity is available whereby the monthly payment to the survivor, retiree or spouse, is one-half of the annuity payment made while both retiree and spouse were alive.

Children's Benefits Under the Various Plans

Children's benefits under JSAS, expressed as a percentage of salary, are higher than those under CSRS and FERS except where the high-3 salary of a CSRS or FERS employee falls below \$40,440. Under the military's SBP, children's benefits must be purchased separately. For a surviving spouse with children under JSAS, each child receives an annuity of the lesser of 10 percent of average salary or 20 percent of high-3 salary divided by the number of children.¹³ Under CSRS, each child receives a fixed dollar amount—the lesser of \$4,044, \$12,132 divided by the number of children, or 60 percent of the high-3 salary divided by the number of children. FERS provides similar dollar amounts. The amounts under CSRS and FERS are adjusted annually for inflation. If there is no surviving spouse, the amounts increase under both plans.

Differing Program Designs Preclude Direct Comparisons of Contributions Among Plans

The survivor benefit contributions for employees and Members of Congress in CSRS and FERS are incorporated into their basic retirement plans, whereas JSAS, the Tax Court, and the U.S. Court of Veterans Appeals plans have separate and identifiable contribution rates for survivor benefits. Because OPM does not report the survivor portion of retirement contributions for CSRS and FERS, direct comparisons of employee contribution requirements among the plans cannot be made. Participants in all the programs except CSRS¹⁴ are also covered by Social Security to which they must contribute and from which survivor benefits are available.

While the differing designs of the various plans preclude definitive comparisons of employee contributions toward survivor benefit costs, it is clear that retirees under CSRS, FERS, and the military's SBP must contribute larger percentages of their annuities than retired judges must contribute under JSAS in order for their survivors to receive benefits upon the retirees' deaths. Retired Tax Court and Court of Veterans Appeals judges contribute at the same rate as retired judges under JSAS. Table 2 shows the participants' contribution rates for the six federal survivor plans in our study.

¹³At the end of fiscal year 1995, the average salary/retirement pay for participating active and retired judges was about \$126,500.

¹⁴CSRS Members of Congress are covered by Social Security.

Table 2: Participants' Contributions to the Six Federal Survivor Benefit Plans

Federal survivor plans	Participants' contribution rate (expressed as a percentage of salary or annuity)	
	Active	Retired
JSAS	2.2%	3.5%
Tax Court Survivors' Annuity Plan	3.5%	3.5%
Court of Veterans Appeals Judges Retirement Plan	3.5%	3.5%
CSRS	a	2.5% of \$3,600 plus 10% of excess ^c
FERS	a	10% ^d
Military's SBP	b	6.5% ^c

^aNo portion of participants' contributions to the retirement plan is designated for survivors' benefit costs.

^bMilitary members do not contribute to their retirement plan, and survivor benefits are not available until the member is eligible to retire.

^cFor reduced survivor benefits, a lesser portion of the retirement annuity may be designated as the base for the survivor benefit computation.

^dMaximum contribution rate for full survivor benefits, 5 percent for reduced survivor benefits.

Source: Survivor benefit plans data.

JSAS requires active and senior status judges to contribute 2.2 percent of their salaries towards the costs of JSAS. Retired judges must contribute 3.5 percent of their retirement annuities to JSAS. In contrast, survivor benefit plans for judges under the Tax Court and Court of Veterans Appeals require all participating judges, active and retired, to contribute 3.5 percent of their salaries and annuities toward plan costs.

Judges in the three retirement plans that are associated with JSAS have varying participant contribution requirements. Judges in the Judicial Officers' Retirement Fund contribute 1 percent of their salaries for no more than 14 years toward the cost of their retirement benefits, while judges in the Judicial Retirement System and the Court of Federal Claims Judges' Retirement System make no contributions toward retirement benefits. Additionally, Tax Court judges do not contribute toward their retirement benefits while Court of Veterans Appeals judges contribute 1 percent of their salaries for no more than 15 years toward their retirement benefits.

Most employees in CSRS contribute 7 percent of their salaries to the retirement plan during their working years. Certain groups with special benefits not available to general employees contribute amounts greater than 7 percent. For example, Members of Congress receive more generous retirement benefits and must contribute 8 percent of their salaries. While annuities are available to the survivors of employees and Members who die before retirement, no portion of the required contribution is designated as being the employee's or Member's share of survivor benefit costs. Rather, the contributions represent the share of all system costs, including survivor benefit costs, that participants must pay. Similarly, the retirement plan portion of FERS requires employees to contribute 0.8 percent of their salaries and Members to contribute 1.3 percent of their salaries toward total plan costs, with no specified portion of these contributions being designated as contributions toward survivor benefit costs. Active military personnel do not contribute toward the cost of the Military Retirement System; however, the plan provides no survivor benefits to personnel who die before they are eligible to retire.

Active judges in all of the above-mentioned judicial retirement systems and participants in FERS and the Military Retirement System must make Social Security contributions. In 1997, the required Social Security contribution is 6.2 percent of earnings up to \$65,400. Social Security benefits are available to the survivors of deceased participants in all of these systems, but like CSRS and FERS, no portion of the Social Security contribution is designated as being for survivor benefit costs. CSRS participants, except for Members of Congress, are not covered by Social Security.

CSRS retirees who wish to provide annuities to surviving spouses upon their deaths must accept reductions in their annuity amounts. They may designate any portion of their annuities as the base for spousal survivor benefits and then accept reductions equal to 2.5 percent of the first \$3,600 of the designated annuity amount and 10 percent of any designated amount greater than \$3,600. Retirees under FERS have somewhat different options for providing benefits to their surviving spouses. They may have their annuities reduced by either 10 percent or 5 percent, depending on the level of spousal survivor benefits they desire to provide. Regardless of whether CSRS and FERS retirees elect to have their annuities reduced to provide benefits to their surviving spouses, benefits are payable to any eligible surviving children without an annuity reduction.

Military retirees may designate their retirement annuity or a lesser elected base amount as the base for survivor benefits. Military retirees accept annuity or lesser elected base reductions of 6.5 percent to provide spousal survivor benefits and further reductions to provide benefits to surviving children. The amount of annuity reduction for children's survivor benefits varies, depending on the age of the youngest child and whether there is a surviving spouse.

The varying contribution requirements among JSAS, CSRS, FERS, and military retirees who provide survivor benefits to their survivors are best illustrated with an actual computation. A U.S. District Court judge who retired in 1996 would receive an annual annuity of \$133,600. To provide survivor coverage under JSAS, the retired judge would contribute 3.5 percent of annuity or \$4,676. If the judge were subject to the annuity reduction requirements of CSRS or FERS and wished to provide the maximum survivor benefits, the required reduction would be \$13,090 under CSRS and \$13,360 under FERS, or at least \$8,414 a year more than the contribution required by JSAS. Similarly, if the judge were subject to the military SBP reduction requirements, the reduction would be \$8,684 for the basic package, and \$4,008 more than required by JSAS.

Other Differences Among the Survivor's Benefit Plans

In addition to the spousal and children's benefits, other features of the survivor's plans in our study are different, but there are similarities. Table 3 shows a summary comparison of these other features of the six federal survivors plans in our study.

Figure 3: Summary Features of the Six Federal Survivor Benefit Plans

Plan Feature	Six federal					
	JSAS		Tax Court of Survivors' Annuity Plan		Court of Veterans Appeals Judges Retirement Plan	
	Description of feature, time, or age	Yes No	Description of feature, time, or age	Yes No	Description of feature, time, or age	Yes No
Minimum service requirement	18 months		5 years		5 years	
Marriage duration	1 year		2 years		2 years	
Minimum age of surviving spouse	None		50, any age with children		50, any age with children	
Participation election	Within 6 months of taking office or marriage		Anytime in office, before successor takes office		Anytime in office	
Participation withdrawal		•		•		•
Deferred annuity		•		•		•
Surviving spouse benefit formula (after retirement)	1.5% of pay x years of service, including retirement ^d		1.5% of pay x years of service ^d		1.5% of pay x years of service ^d	
Surviving spouse benefit formula (before retirement)	Same as after retirement		Same as after retirement		Same as after retirement	
Minimum/maximum benefit (percentage of pay)	25%/50%		25%/50%		25%/50%	
Children benefits (with surviving spouse)	Lesser of 10% of pay per child or 20% of pay divided by number of children		Lesser of 10% of pay per child or 20% of pay divided by number of children		Lesser of 10% of pay per child or 20% of pay divided by number of children	
Children benefits (with no surviving spouse)	Lesser of 20% of pay per child or 40% of pay or spousal annuity divided by number of children		Lesser of 20% of pay per child or 40% of pay divided by number of children		Lesser of 20% of pay per child or 40% of pay divided by number of children	
Cost-of-living adjustment	Full CPI		3% for each 5% increase in judges' pay		3% for each 5% increase in judges' pay	

^bApplies only to marriage after retirement; there is no minimum marriage duration before retirement.

^cCoverage is automatic for employees/members after meeting the eligibility requirements; retirees can elect to continue survivor benefit coverage.

^dYears of service other than judicial may be included at 0.75 percent of pay.

^eBenefits are reduced to 35 percent of retirement pay at survivor's age 62 to reflect availability of Social Security benefits.

^fMinimum survivor benefits for deceased employees; there is no guaranteed minimum for retirees' survivors.

^gMinimum survivor benefits are 55 percent of a minimum \$300 base amount and the maximum survivor benefits are 55 percent of full retirement pay.

Source: Survivor benefit plans data.

Under JSAS, the judges' years of service in the survivor benefit formula include those years in retirement. The survivor benefit formulas for the other five plans do not include the retirement years, even though participants under all six plans make contributions in retirement.

Refunding of the contributions to participants' estates, if there are no survivors, varies among the three judicial and three nonjudicial plans. Those who choose to participate in the survivor plans must contribute a designated amount to the plan. Under the JSAS, Tax Court, and Court of Veterans Appeals plans, contributions plus 3 percent interest are paid to the judges' estates if there are no survivors. Conversely, there are no refunds to the estates of CSRS, FERS, and military SBP participants. While participants in all six plans may stop their contributions upon the dissolution of the marriage, only the participants in the three judicial plans can receive refunds upon leaving office. However, JSAS participants cannot receive refunds on those contributions of 2.2 percent of salary under the 1992 Act.

Creditable service rendered in prior years, for which contributions were withdrawn or not withheld, may be purchased under all of the plans, except the Military Retirement System and FERS for service performed after 1988 or any contribution withdrawal, with differing rates of interest paid by the participants. The years of creditable service are used in the formula for determining retirement and/or survivor benefit amounts. Survivor annuities under the three judicial plans and retirement annuities under CSRS, for work performed before October 1982, may be reduced by 10 percent of the unpaid contributions for prior service at the time of the participant's death. JSAS, Tax Court, and Court of Veterans Appeals

participants pay 3.5 percent of the salary earned during the earlier service plus 3 percent interest. CSRS and FERS participants pay 7 percent and 1.3 percent, respectively, of salary earned during the earlier service at current interest determined by the Secretary of the Treasury. CSRS participants may be required to make payment to receive credit for prior military service. For FERS participants to receive credit for prior military service, 3 percent of the earned military base pay plus current interest determined by the Secretary of the Treasury must be paid. The other plans do not require payment to receive credit for prior military service.

All six plans have employee minimum-service requirements before survivors become eligible for benefits, ranging from 18 months to 5 years with the military's requirement set at 20 years. There is a minimum marriage duration before the employee's death, ranging from 9 months to 2 years for all of the plans except the military's SBP; however, a child of the marriage overrides the marriage tenure. Although two of the plans, Tax Court and Court of Veterans Appeals, have a minimum-age requirement before a surviving spouse can begin receiving benefits, there is no age requirement if there are eligible dependent children of the marriage. Electing to participate in these optional survivor plans varies from the time of taking office with JSAS to the time of retirement with CSRS, FERS, and the military's SBP; employees in the latter three plans are automatically covered after meeting the eligibility requirements. Two plans, JSAS and FERS, and Members of Congress under CSRS provide for a deferred annuity for a surviving spouse. All six plans have some type of COLA, with four of them tied to the yearly changes in the CPI.

Details on the various features of the six plans are provided in appendix I.

Agency Comments and Our Evaluation

The Director of AOUSC provided written comments on a draft of this report. AOUSC's comments and our detailed responses to them are contained in appendix II.

In general, AOUSC believed that we should have (1) stressed more that the judges' contributions have exceeded the government's contributions, (2) used the entry-age normal cost method with a different weighting for retired judges' contributions to determine the judges' future costs, and (3) included Social Security and TSP benefits in the comparison of the survivor plans that we studied.

AOUSC believed that we should have highlighted that the judges have actually contributed more than the government to JSAS during the 3-year period covered by our study and, as a matter of record, more than the government over the last 10 years. Our report did provide this context, pointing out that the judges have paid more into JSAS than the government before and after the 1992 Act. However, as directed by statute, our objective was to determine whether the judges were paying one-half of JSAS' future costs, as opposed to comparing the judges' and government's share of total JSAS contributions in any particular year.

AOUSC believed that we overstated the adjustment needed for the judges to cover one-half of JSAS' future costs. AOUSC said that the adjustment would have been less had it been computed using the entry-age normal cost method, rather than the aggregate normal cost method, and a different weighted contribution rate for the judges. AOUSC provided a revised table based on the entry-age normal method and its proposed new weights for the judges' contributions. We recognize that the entry-age and aggregate approaches are both acceptable methods for determining normal cost and have shown in the report that the adjustment would have been smaller using the entry-age method. However, we used the aggregate cost method as our primary cost comparison approach for consistency reasons. Specifically, this was the method that was used in JSAS' 595 Reports and in comparing JSAS' normal costs to other federal survivor benefit plans in the report of the House Judiciary Committee accompanying the 1992 Act.¹⁵ With respect to using a different weighted contribution rate for the judges, at issue are AOUSC's past and current assumptions about the rate at which judges retire. In its comments, AOUSC asserted a higher retirement rate than the one that was used in preparing the JSAS 595 Reports and that AOUSC made available during our review. We recognize that actuarial assumptions vary from year-to-year and can yield different results. However, we believe it is appropriate to rely on the weighted contribution rate for the judges that AOUSC presented in its published JSAS 595 Reports, which are the official public record of JSAS' fiduciary soundness.

AOUSC also said that our comparison of federal survivor plans should have included any benefits available to survivors from Social Security and TSP. While we recognized and have noted in our report that Social Security survivor benefits and TSP investments can contribute to a surviving spouse's income, we disagree that they should have been included in our comparison of the federal survivor benefit plans. In the House Judiciary Committee report accompanying the 1992 Act, Social Security benefits

¹⁵H. Rep. 102-1006, 102d Congress.

were not included in the comparison of JSAS to the other federal survivor benefit plans. Also, the act specifically required us to compare JSAS to the other federal survivor plans, and—as noted in the report—Social Security contributions and benefits are separate and apart from such plans. Finally, had we added Social Security benefits into our comparison, we believe the most appropriate comparison would have been between the judges in JSAS and Members of Congress and higher-graded FERS general employees because of Social Security’s benefit structure. In this regard, Members in either CSRS and FERS, higher-graded FERS general employees, and JSAS survivors should receive about the same level of Social Security survivor benefits because the salary levels of judges, Members of Congress, and higher-graded FERS general employees are similar.

We also do not agree that TSP investments should have been included in our comparison because TSP does not provide survivor benefits. As stated in the report, TSP is a tax-deferred retirement savings and investment plan. If an employee or retiree dies and has a TSP account, the surviving spouse can receive the proceeds from the account or an annuity if one had been purchased with the TSP proceeds at retirement. However, survivors generally have no statutory entitlement to TSP account balances as they do to the federal plans’ survivor benefits. Spouses of retired FERS employees must waive their rights to any TSP withdrawal option other than a 50-percent joint life annuity. Moreover, just as with Social Security benefits, TSP was not included in the federal survivor benefit plans’ comparison in the House Judiciary Committee report on the 1992 Act.

Based on its view that we should have used the entry-age normal method and different retirement rate assumptions to determine the adjustment that would be necessary for the judges to pay one-half of JSAS’ future costs, AOUSC prepared an alternative table to ours using its preferred cost method and retirement assumptions. It also prepared alternative tables comparing survivor benefits and participant contributions that included TSP and Social Security. Our detailed responses to these tables are provided in appendix II. Caution should be exercised in drawing conclusions from these tables because of technical errors in the tables and because the assumptions underlying them appear to underestimate the shortfall in the judges’ contributions and survivor benefits.

We are sending copies of this report to the Chairmen and Ranking Minority Members of the Senate Subcommittee on Administrative Oversight and the Courts and the House Subcommittee on Courts and

Intellectual Property of the Committees on the Judiciary, the Director of AOUSC, and other interested parties. Copies will also be made available to others upon request.

Major contributors to this report are listed in appendix III. If you have any questions, please call me at (202) 512-9039.



Michael Brostek
Associate Director, Federal Management
and Workforce Issues

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Abbreviations

AOUSC	Administrative Office of the U.S. Courts
COLA	cost-of-living adjustment
CPI	Consumer Price Index
CSRS	Civil Service Retirement System
FERS	Federal Employees Retirement System
JSAS	Judicial Survivors' Annuities System
OPM	Office of Personnel Management
SBP	Survivor Benefit Plan
TSP	Thrift Savings Plan

Features of Selected Federal Survivor Benefit Plans

This appendix lists the various features of the six selected federal survivor benefit plans. Two of the survivor plans, the Judicial Survivors' Annuities System (JSAS) and the U.S. Tax Court Survivors' Annuity Plan, are stand-alone plans. For those judges who participate in the JSAS, the companion retirement and disability benefits plans include the Judicial Retirement System, the Judicial Officers' Retirement Fund, and the Court of Federal Claims Judges' Retirement System. The Tax Court judges' retirement and disability plan is called the U.S. Tax Court Retirement Plan. The remaining four survivor plans are part of larger retirement systems that also provide retirement and disability benefits to participants. The six plans are as follows:

- Judicial Survivors' Annuities System
- U.S. Tax Court Survivors' Annuity Plan
- U.S. Court of Veterans Appeals Judges Retirement Plan
- Civil Service Retirement System
- Federal Employees Retirement System
- Military Retirement System's Survivor Benefit Plan

Judicial Survivors' Annuities System

Contribution Rates

Employee/retiree contribution rate. Active and "senior status" judges and other judicial officials contribute 2.2 percent of salary and retired judges and judicial officials contribute 3.5 percent of retirement annuity to participate in JSAS. Prior creditable service may be credited to JSAS if deposits equal to 3.5 percent of salary earned during the earlier service plus 3 percent interest are paid. No deposits are required for prior military service.

Government contribution rate. The government's share of contribution is the amount required to reduce the unfunded liability to zero, not to exceed 9 percent of salary or retirement annuity.

Eligibility Requirements for Survivor Benefit Coverage

Years of service. A judicial official must have at least 18 months of judicial service and contributions to JSAS before becoming vested in the plan.

Marriage Duration. A surviving spouse must have been married to the judicial official at least 1 year before the official's death or be a parent of a child of the marriage. A former spouse must have been married to the judicial official at least 9 months.

Commencement/termination of benefits. Benefits commence on the date of the judicial official's death. If a surviving or former spouse remarries before age 55, benefits for that spouse are terminated.

Participation Election

The election must be made within 6 months of taking office or getting married.

Former spouse. The judicial official's election must have been in effect at the time of divorce. An election to provide a survivor annuity must be made at the time of retirement or, if later, within 2 years after the marriage was dissolved.

Insurable interest.¹⁶ Not applicable.

Deferred retirement. The judicial official must file a written notification, within 90 days before leaving office, of the intent to remain under JSAS and contribute 3.5 percent of the deferred retirement annuity amount.

Withdrawal of Participation

Participation may be revoked upon the dissolution of the marriage. The contributions plus 3 percent interest, minus those paid at 2.2 percent of salary and 3.5 percent of salary for prior creditable service, may be paid to the judge upon leaving office. If there is no eligible surviving spouse or child upon the death of the judicial official, the contributions plus 3 percent interest are paid to the judicial official's estate.

Survivor Benefit Formula

After retirement. The annual spousal annuity is 1.5 percent of average salary¹⁷ for each year of creditable judicial service (including years in retirement) and as a Member of Congress and up to 15 years of combined congressional staff and executive branch service and up to 5 years of military service, plus 0.75 percent of average salary for congressional staff

¹⁶An insurable interest beneficiary is one who can reasonably expect to receive financial benefit from the continued life of the retiree.

¹⁷Average salary is the average annual salary and/or retirement annuity received during the 3 highest paid years.

and executive branch service over 15 years. Creditable years include those where deductions or contributions were made to the plan, except for military service.

Before retirement. Same as after retirement.

Insurable interest. Not applicable.

Deferred retirement. Same as after retirement. Benefit formula includes time between leaving office and starting spousal annuity.

Minimum/maximum amount of benefit. Spousal annuity may not be greater than 50 percent or less than 25 percent of average annual salary.

Reduction of Annuity for Unpaid Contributions for Prior Service

Spousal annuity is reduced by 10 percent of any judicial and nonjudicial service deposits that are still unpaid on the date of the judicial officer's death. The survivor may elect not to count years for which contributions were not paid for prior service and not incur a reduced annuity.

Children's Benefits

Age of children. Surviving unmarried dependent children must be under age 18 or age 22 if full-time student or incapable of self-support due to a disability incurred before age 18 or age 22 if a student.

Benefit computation. If the judicial official is survived by a spouse, each child's annual annuity is the lesser of

- 10 percent of average salary or
- 20 percent of average salary divided by number of children.

If the judicial official is not survived by a spouse, each child's annual annuity is the lesser of

- spousal annuity divided by number of children,
- 20 percent of average salary, or
- 40 percent of average salary divided by number of children.

Cost-of-Living Adjustments

Survivors' annuities are increased for full annual increase in the Consumer Price Index (CPI). The adjustment measures yearly change in third quarter to third quarter CPI for urban wage earners and clerical workers.

Social Security Eligibility and Benefits

A surviving spouse with children or children only are generally eligible for Social Security benefits if the employee paid Social Security taxes and worked at least 18 months in the 3 years preceding death. Benefits are paid to the surviving spouse at age 60 (age 50 if disabled) or at any age if there are surviving children under age 16 or children who were disabled before age 22. Benefits are also paid to unmarried children under age 18 and up to age 19 if they are full-time students.

Former spouses, with marriages lasting 10 years or more, are eligible for benefits similar to those of surviving spouses as well as those former spouses with children who are under age 16 or at any age if disabled before age 22.

A surviving spouse or minor children may receive a one-time payment of \$255 and monthly benefits. The monthly benefit is a percentage of the deceased employee's or retiree's basic Social Security benefit ranging from 75 to 100 percent for each beneficiary. The maximum amount that a family may receive is generally equal to about 150 to 180 percent of the employee's or retiree's benefit rate.

U.S. Tax Court Survivors' Annuity Plan

Contribution Rates

Employee/retiree contribution rate. Active and retired judges contribute 3.5 percent of salary and retirement annuity to participate in the plan. Credit is given under the Tax Court plan for any deposits that were made and not withdrawn during any earlier service under CSRS or FERS. Prior creditable service for which contributions were not made or withdrawn may be credited to the Tax Court plan if deposits equal to 3.5 percent of salary earned during the earlier service plus 3 percent interest are paid. No deposits are required for prior military service.

Government contribution rate. The government's share of contribution is the amount required to reduce the unfunded liability to zero, not to exceed 11 percent of salary.

**Eligibility Requirements
for Survivor Benefit
Coverage**

Years of service. A judge must have at least 5 years of creditable service and contributions before becoming vested in the plan. Creditable service for vesting purpose includes judicial, congressional, and executive branch.

Marriage duration. A surviving spouse must have been married to the judge at least 2 years before the judge's death or be a parent of a child of the marriage.

Commencement/termination of benefits. Benefits commence on the date of the judge's death, for a surviving spouse beginning at age 50 or any age if there are dependent children. If a surviving spouse remarries before age 55, benefits for the spouse are terminated.

Participation Election

The election must be made while the judge is still in office or no later than the day after the judge's successor takes office, if the judge is not reappointed.

Former spouse. Not applicable.

Insurable interest. Not applicable.

Deferred retirement. Not applicable.

**Withdrawal of
Participation**

Participation may be revoked upon the dissolution of the marriage. The contributions plus 3 percent interest may be paid to the judge upon leaving office or dissolution of the marriage. If there is no eligible surviving spouse or child upon the death of the judge, the contributions plus 3 percent interest are to be paid to the judge's estate.

Survivor Benefit Formula

After retirement. The annual spousal annuity is 1.5 percent of average salary¹⁸ for each year of judicial, congressional (member and/or staff), and military service, excluding any service greater than 15 years as a congressional staff employee and greater than 5 years in the military service, plus 0.75 percent of average salary for executive branch service.

Before retirement. Same as after retirement.

¹⁸Average salary is the average of the highest 3 consecutive years of annual salary and/or retirement annuity.

Appendix I
Features of Selected Federal Survivor
Benefit Plans

Insurable interest, Not applicable.

Deferred retirement. Not applicable.

Minimum/maximum amount of benefit. Spousal annuity may not be greater than 50 percent or less than 25 percent of average annual salary.

Reduction of Annuity for Unpaid Contributions for Prior Service. Spousal annuity is reduced by 10 percent of any judicial and nonjudicial service deposits still unpaid on the date of the judicial officer's death. The survivor may elect to not count years for which no contributions were paid for prior service and not incur a reduced annuity.

Children's Benefits

Age of children. Surviving unmarried dependent children must be age 18 or incapable of self-support due to a disability.

Benefit computation. If the judge is survived by a spouse, each child's annual annuity is the lesser of

- 10 percent of average annual salary or
- 20 percent of average annual salary divided by number of children.

If the judge is not survived by a spouse, each child's annual annuity is the lesser of

- 20 percent of average annual salary or
- 40 percent of average annual salary divided by number of children.

Cost-of-Living Adjustments

Survivor's annuities increase by 3 percent for each 5 percent increase in judges' salaries on the day the salary increase becomes effective.

Social Security Eligibility and Benefits

Survivors' eligibility and benefits under the U.S. Tax Court Survivors' Annuity Plan are the same as those described under JSAS.

U.S. Court of Veterans Appeals Judges Retirement Plan

Contribution Rates

Employee/retiree contribution rate. Active and retired judges contribute 3.5 percent of salary or retirement annuity to participate in the survivor plan. Credit is given under the plan for any deposits that were made and not withdrawn during any earlier service under CSRS or FERS. Prior creditable service for which contributions were not made or withdrawn may be credited to the plan if deposits equal to 3.5 percent of salary earned during the earlier service plus 3 percent interest are paid. No deposits are required for prior military service.

Government contribution rate. The government's share is the amount required to reduce the unfunded liability to zero.

Eligibility Requirements for Survivor Benefit Coverage

Years of service. A judge must have at least 5 years of creditable service and contributions before becoming vested in the plan. Creditable service for vesting purpose includes judicial, congressional, and executive branch.

Marriage duration. A surviving spouse must have been married to the judge at least 2 years before the judge's death or must be a parent of a child of the marriage.

Commencement/termination of benefits. Benefits commence on the date of the judge's death for a surviving spouse beginning at age 50 or any age if there are dependent children. If a surviving spouse remarries before age 55, benefits for the spouse are terminated.

Participation Election

The election must be made while in office.

Former spouse. Not applicable.

Insurable interest. Not applicable.

Deferred retirement. Not applicable.

Withdrawal of Participation

Participation may be revoked at any time. Revocation of the election to participate in retirement program automatically revokes participation in the survivor plan. The contributions plus 3 percent interest may be paid to the judge upon leaving office. If there is no eligible surviving spouse or child upon the judge's death, the contributions plus 3 percent interest shall be paid to the judge's estate.

Survivor Benefit Formula

After retirement. The annual spousal annuity is 1.5 percent of average salary¹⁹ for each year of judicial, congressional (member and/or staff), and military service, excluding any service greater than 15 years as a congressional staff employee and greater than 5 years in the military service, plus 0.75 percent of average salary for executive branch service.

Before retirement. Same as after retirement.

Insurable interest. Not applicable.

Deferred retirement. Not applicable.

Minimum/maximum amount of benefit. Spousal annuity may not be greater than 50 percent or less than 25 percent of average salary.

Reduction of Annuity for Unpaid Contributions for Prior Service

Spousal annuity is reduced by 10 percent of any judicial and nonjudicial service deposits still unpaid on the date of the judicial officer's death. The survivor may elect not to count years for which no contributions were paid for prior service and not incur a reduced annuity.

Children's Benefits

Age of children. Surviving unmarried dependent children must be under age 18 or age 22 if full-time student or incapable of self-support due to a disability incurred before age 18 or age 22 if a student.

Benefit computation. If the judge is survived by a spouse, each child's annual annuity is the lesser of

- 10 percent of average annual pay or
- 20 percent of average annual pay divided by number of children.

¹⁹Average salary is the average of the highest 3 consecutive years of annual salary and/or retirement annuity.

If the judge is not survived by a spouse, each child's annual annuity is the lesser of

- 20 percent of average annual pay or
- 40 percent of average annual pay divided by number of children.

Cost-of-Living Adjustments

Survivors' annuities are increased by 3 percent for each 5 percent increase in judges' salaries on the day the salary increase becomes effective provided some of the last 18 months of federal service was service on the Court.

Social Security Eligibility and Benefits

Survivors' eligibility and benefits under the U.S. Court of Veterans Appeals Judges Retirement Plan are the same as those described under JSAS.

Civil Service Retirement System

Contribution Rates

Employee/retiree contribution rate. Employees generally contribute 7 percent²⁰ toward the retirement program with no designated amount for survivor benefits. For retirees, 2.5 percent of the first \$3,600 of annuity plus 10 percent over \$3,600 are deducted to cover costs of full survivors' benefits. For less than full survivor's benefits, the contribution rate remains the same, but the base amount is any amount less than the full retiree's annuity. Insurable interest premiums are 10 to 40 percent of retirement annuity, depending on the age difference between the employee and the person named as beneficiary. Prior creditable service for which there are no contributions may be credited if deposits equal to 7 percent of prior salary (since January 1970) plus interest as determined by the Secretary of the Treasury are paid. No deposits are required for pre-1957 military service or any military service if first employed by the federal government before October 1982.²¹

²⁰Although most employees contribute 7 percent, law-enforcement officers, firefighters, and congressional employees contribute 7.5 percent, and Members of Congress contribute 8 percent towards the retirement program. Bankruptcy, magistrate, Court of Federal Claims, and Court of Military Appeals judges also contribute 8 percent.

²¹Deposits for any post-1956 military service can be made to avoid a reduction in retirement annuity at age 62 or a reduction in spousal survivor annuity, if the employee becomes eligible for Social Security benefits.

Government contribution rate. The government pays all of the remaining cost; there is no specified maximum.

**Eligibility Requirements
for Survivor Benefit
Coverage**

Years of service. An employee must have at least 18 months of civil service and contributions before becoming vested in the plan.

Marriage duration. A surviving spouse must have been married to the current or former employee or retiree at least 9 months or be a parent of a child of the marriage; however, accidental death of an employee overrides the marriage duration. A former spouse must have been married to the employee or retiree at least 9 months.

Commencement/termination of benefits. Benefits commence on the date after the employee or retiree's death. If a surviving or former spouse remarries before age 55, benefits for that spouse are terminated. The benefits may be reinstated if the remarriage terminates.

Participation Election

Full surviving spouse benefits are effective at the time of retirement, unless waived or reduced jointly by retiree and spouse or the Office of Personnel Management (OPM) waives the spouse's consent when all reasonable attempts have been made to obtain such consent for the surviving spouse benefit. If married after retirement, an election to participate must be within 2 years of the marriage. An employee may change the survivor annuity no later than 30 days after the date of the first regular monthly retirement annuity payment. If no survivor benefits or less than full benefits are selected, the retiree may elect to increase benefits up to 18 months after retirement but may not elect to decrease the benefits.

Former spouse. The election must be made at time of retirement. If the marriage terminates after retirement, a change in the participation election must be made within 2 years after the marriage is dissolved.

Insurable interest. The election must be made at time of retirement and does not require spousal consent.

Deferred retirement. For a Member of Congress eligible for deferred retirement annuity, a surviving or former spouse is eligible for an immediate survivor annuity. There is no spousal annuity for a former employee who is eligible for a deferred retirement annuity and dies before the deferred retirement annuity begins or before reaching age 62.

Withdrawal of Participation

The surviving spouse or former spouse annuity and insurable interest elections may not be revoked later than 30 days after the date of the first regular monthly retirement annuity payment, except, in the case of a spouse, when OPM waives the spouse's consent when all reasonable attempts have been made to obtain such consent for the surviving spouse benefit or where the employee ceases to be married. The exception to the 30-day rule, in the case of insurable interest, is when the beneficiary dies or the surviving spouse benefit is elected after retirement. There is no refund of contributions to the retiree even if there is no eligible surviving spouse, child, or beneficiary.

Survivor Benefit Formula

After retirement. The full survivor spousal annuity is 55 percent of the retiree's annuity before the survivor contribution reduction. Less than a full survivor annuity is 55 percent of the base amount selected, which is any amount less than the full retiree's annuity. The retiree's annuity formula is 1.5 percent of average salary²² for the first 5 years, plus 1.75 percent for the next 5 years, plus 2 percent for the remaining years. For a Member of Congress, the retiree's annuity formula is generally 2.5 percent of average salary or final salary times years of service. The maximum retiree's annuity is generally 80 percent of average salary.

Before retirement. The survivor spousal annuity is 55 percent of the employee's accrued retirement benefits at time of death, or if higher, 55 percent of the disability formula, the lesser of (1) 40 percent of average salary or (2) the amount attained if the employee had worked until age 60.

Insurable interest. The beneficiary receives 55 percent of the retiree's self-only annuity after insurable interest reduction.

Deferred retirement. For a Member of Congress, the survivor spousal annuity is 55 percent of a Member's deferred retirement annuity. For a former employee who dies before the deferred annuity begins or before reaching age 62, the surviving spouse receives a refund of the retirement contributions. For a former employee who dies after the deferred retirement annuity begins or reaches age 62 and has filed an application for retirement, the survivor spousal annuity is 55 percent of the deferred retirement annuity.

Minimum/maximum amount of benefit. For a full survivor spousal annuity, the minimum amount of benefit is generally 22 percent and the maximum

²²Average salary is the highest basic pay over 3 consecutive years of creditable service.

is 44 percent of employee's average salary. There is no guaranteed minimum for employees dying after retirement.

Reduction of Annuity for Unpaid Contributions for Prior Service

The retirement annuity is reduced by 10 percent of any prior service deposits that were never withheld for service performed before October 1982. To not incur the reduced annuity and to receive credit for service after September 30, 1982, the deposits plus interest must be paid by the employee prior to retirement. The survivor may elect to not count years for which no contributions were paid or to pay for prior service and not incur a reduced survivor annuity.

Children's Benefits

Age of children. Surviving unmarried dependent children must be under age 18 or age 22 if full-time student or incapable of self-support due to a disability incurred before age 18.

Benefit computation. If there is a surviving spouse, each child is to receive annually the lesser of

- 60 percent of average salary divided by the number of children,
- \$4,044 (as of 12/01/96) for each child, or
- \$12,132 (as of 12/01/96) divided by the number of children.

If there is no surviving spouse, each child is to receive annually the lesser of

- 75 percent of average salary divided by the number of children,
 - \$4,824 (as of 12/01/97) for each child, or
 - \$14,472 (as of 12/01/96) divided by the number of children.
-

Cost-of-Living Adjustments

Survivors' annuities are increased for full annual increase in CPI as described under JSAS.

Social Security Eligibility and Benefits

Under CSRS for a Member of Congress, the survivors' eligibility and benefits are the same as described under JSAS. An employee/retiree's survivor is not eligible for Social Security benefits under CSRS.

Federal Employees Retirement System

Contribution Rates

Employee/retiree contribution rate. Employees generally contribute 0.8 percent²³ (7 percent minus 6.2 percent for Social Security) of salary toward the defined benefit plan part of the retirement program,²⁴ with no designated amount for survivor benefits. Retirees contribute 10 percent of their annuities to receive full survivor benefits and 5 percent for reduced survivor benefits. Insurable interest premiums are 10 percent of annuity plus 5 percent for each full 5 years the beneficiary is younger than the retiree. The total reduction for insurable interest may not exceed 40 percent. Only service performed before 1989 for which there are no contributions may be credited if deposits equal to 1.3 percent of prior salary plus interest as determined by the Secretary of the Treasury are paid. Deposits of 3 percent of military base pay plus interest, as determined by the Secretary of the Treasury, are required to receive credit for post-1956 military service.

Government contribution rate. The government pays all remaining cost; there is no specified maximum.

Eligibility Requirements for Survivor Benefit Coverage

Years of service. An employee must have at least 18 months of civil service and contributions before becoming vested in the plan.

Marriage duration. A surviving spouse must have been married to the current or former employee or retiree at least 9 months or be a parent of a child of the marriage; however, accidental death of an employee overrides the marriage duration. A former spouse must have been married to the employee/retiree at least 9 months.

Commencement/termination of benefits. Benefits commence on the date after the employee/retiree's death. For the surviving or former spouse of a former employee who is eligible for a deferred annuity, benefits commence on the date after death or the earliest eligible retirement date. If a surviving or former spouse remarries before age 55, benefits for that

²³Although most employees contribute 0.8 percent, law-enforcement officers, firefighters, air traffic controllers, congressional employees, and Members of Congress contribute 1.3 percent. Bankruptcy, magistrate, Court of Federal Claims, and Court of Military Appeals judges also contribute 1.3 percent.

²⁴FERS is a three-part retirement program that includes (1) a defined benefit plan, (2) a Thrift Savings Plan, and (3) Social Security.

spouse are terminated. The benefits may be reinstated if the remarriage terminates.

Participation Election

Full surviving spouse benefits are effective at the time of retirement, unless waived or reduced jointly by retiree and spouse. If married after retirement, an election to participate must be made within 2 years of the marriage. An employee may change the survivor annuity no later than 30 days after the date of the first regular monthly retirement annuity payment. If no survivor benefits or less than full benefits are selected, the retiree may elect to increase benefits up to 18 months after retirement but may not elect to decrease the benefits.

Former spouse. The election must be made at time of retirement. If the marriage terminates after retirement, the change in the participation election must be made within 2 years after the marriage is dissolved.

Insurable interest. The election must be made at time of retirement and does not require spousal consent.

Deferred retirement. If the former employee was eligible for a deferred annuity, the surviving or former spouse, as of date of separation from service, may receive a spousal survivor annuity.

Withdrawal of Participation

The surviving spouse or former spouse annuity and insurable interest elections may not be revoked later than 30 days after the date of the first regular monthly retirement annuity payment, except, in the case of a spouse, when OPM waives the spouse's consent when all reasonable attempts have been made to obtain such consent for the surviving spouse benefit or where the employee ceases to be married. The exception to the 30-day rule, in the case of insurable interest, is when the beneficiary dies or the surviving spouse benefit is elected after retirement. There is no refund of contributions even if there is no eligible surviving spouse, child, or beneficiary.

Survivor Benefit Formula

After retirement. A full survivor spousal annuity is 50 percent of the retiree's unreduced benefits plus a special supplementary annuity, which approximates the value of FERS service in a Social Security benefit, payable until age 60 if the spouse will not be eligible for Social Security survivor

benefits until then. A reduced survivor spousal annuity is 25 percent of the retiree's unreduced benefits.

The retiree's unreduced benefit formula is 1 percent of average salary²⁵ times years of creditable service. If employee retires at age 62 with at least 20 years of service, the factor is 1.1 percent. For a Member of Congress, the retiree's formula is generally 1.7 percent of average salary for each of the first 20 years of congressional service and 1 percent for each subsequent year of creditable service.

Before retirement. If the employee has less than 10 years of service, the survivor spousal benefit is the lump-sum payment of \$21,335.30 (as of 12/01/96) plus the greater of one-half of annual pay rate at death or one-half of high-3 average pay. If the employee had 10 years or more service, there is an additional survivor spousal annuity of 50 percent of the employee's accrued benefits.

Insurable interest. The beneficiary receives 55 percent of the retiree's self-only annuity after insurable interest reduction.

Deferred retirement. The survivor spousal annuity is 50 percent of the retirement annuity that would have been paid if the former employee had been eligible for an unreduced deferred annuity on the date of his/her death. A surviving or former spouse may elect to receive a reduced survivor annuity on the day after the former employee dies if the former employee did not meet the age and service requirements for the deferred retirement annuity. The formula for the reduced survivor annuity includes a factor to account for the number of years after the death of an employee before being eligible for the unreduced deferred retirement annuity.

Minimum/maximum amount of benefit. There is no guaranteed minimum or maximum survivor annuity.

Reduction of Annuity for Unpaid Contributions for Prior Service

To receive credit for unpaid service, the deposits must be paid by the employee prior to retirement. The survivor may elect not to count years for which no contributions were paid or to pay for prior service and not incur a reduced survivor annuity; however, credit is not allowed for prior years of service after 1988 if no contributions were withheld or any contributions withdrawn.

²⁵Average salary is the highest basic pay over 3 consecutive years of creditable service.

Children's Benefits

Age of children. Surviving unmarried dependent children must be under age 18 or age 22 if full-time student or incapable of self-support due to a disability incurred before age 18.

Benefit Computation. If there is a surviving spouse, each child is to receive annually the lesser of

- \$4,044 (as of 12/01/96) for each child or
- \$12,132 (as of 12/01/96) divided by the number of children.

If there is no surviving spouse, each child is to receive annually the lesser of

- \$4,824 (as of 12/01/96) for each child or
- \$14,472 (as of 12/01/96) divided by the number of children.

Children's annuities are reduced dollar-for-dollar by any Social Security children's benefits that may be payable.

Cost-of-Living Adjustments

Survivors' annuities are increased annually for increase in CPI. Spousal survivors, unlike retirees who must be age 62, receive either full or partial COLAS regardless of age. If the CPI increase is equal to or greater than 3 percent, the COLA is 1 percentage point less than CPI increase. If CPI is at least 2 percent but less than 3 percent, the COLA is 2 percent. If the CPI is less than 2 percent, the COLA is equal to the CPI increase. Children's benefits are increased for the full annual increase in the CPI.

Social Security Eligibility and Benefits

Survivors' eligibility and benefits under FERS are the same as those described under JSAS.

Military Retirement System's Survivor Benefit Plan

Contribution Rates

Employee/retiree contribution rate. Active members do not contribute toward the retirement program or the Survivor Benefit Plan (SBP). Retired members contribute 6.5 percent of retirement annuity or a lesser elected

base amount (cannot be less than \$300 monthly) to provide for a surviving spousal annuity in SBP. If monthly retirement pay or base amount is less than \$930 (as of 01/01/97), the contribution is 2.5 percent of the first \$434 plus 10 percent of remaining amount. Supplemental SBP premiums for former spouse, children coverage with spousal coverage, or children only coverage are based on age of the retired member, spouse, and youngest child. Insurable interest premiums are 10 percent of retirement annuity, plus 5 percent for each 5 years the retired member is older than the beneficiary, with a maximum premium of 40 percent.

Government contribution rate. The government pays all the remaining cost of SBP; there is no specified maximum. The government does not contribute to the Supplemental SBP or insurable interest coverage.

Eligibility Requirements for Survivor Benefit Coverage

Years of service. A member must have 20 years of military service unless retired for disability or specially enacted early retirement.

Marriage duration. A surviving spouse must be married to member at retirement or, after retirement, at least 1 year before death or be a parent of a child of the marriage. A former spouse must have been married to the member at least 1 year.

Commencement /termination of benefits. Benefits commence on the first day after the member's death. If a surviving or former spouse remarries before age 55, benefits for that spouse are terminated. The benefits may be reinstated if the remarriage terminates.

Participation Election

SBP and Supplemental SBP elections must be made at the time of retirement. Full SBP benefits are in effect at time of retirement unless waived or reduced jointly by the retiree and spouse. If member marries or acquires a dependent child after retirement, the election must be made within 1 year of the occurrence.

Former spouse. The election must be made at time of retirement. If the marriage terminates after retirement, the change in the participation election must be made within 1 year after the marriage is dissolved. If married after retirement and the marriage dissolves, the marriage must have lasted at least 1 year or the former spouse must be a parent of a child of the marriage.

Insurable interest. The election must be made at time of retirement. Only unmarried members with no dependent children may elect insurable interest coverage.

Deferred retirement. Not applicable.

Withdrawal of Participation

SBP and Supplemental SBP may be suspended upon dissolution of the marriage or if children become ineligible for benefits. Insurable interest may be revoked at any time, except for a former spouse. There are no refunds of contributions even if there is no eligible surviving spouse, child, or beneficiary.

Survivor Benefit Formula

After retirement. The monthly survivor spousal annuity is 55 percent of member's retirement annuity or the lesser elected base amount. The monthly base amount, elected by member, cannot be less than \$300 or greater than full retirement annuity. The survivor annuity is reduced to 35 percent of base amount at survivor's age 62 when Social Security benefits are available. Supplemental SBP annuity is available in increments of 5 percent up to 20 percent of retirement annuity for a survivor who is age 62 and older with full SBP. There is a Department of Veterans Affairs' Dependency and Indemnity Compensation survivors' program for service-related deaths. The Veterans Affairs' program reduces the SBP benefit dollar-for-dollar, but not Supplemental SBP.

There are three different retirement annuity formulas depending upon when military service began:

- Before September 8, 1980, retirement annuity is basic pay times (2.5 percent times years of service).
- After September 7, 1980, but before August 1, 1986, retirement annuity is the average of the highest 36 months of basic pay times (2.5 percent times years of service).
- After July 31, 1986, retirement annuity is the average of the highest 36 months of basic pay times (2.5 percent times years of service minus one percentage point for each year of service under 30). At age 62, the penalty is removed and the retirement annuity is recomputed.

The multiplier (2.5 percent times years of service) cannot be greater than 75 percent. Basic pay does not include quarters, subsistence, or housing allowances.

Appendix I
Features of Selected Federal Survivor
Benefit Plans

Before retirement. No SBP benefits are available to survivors of a member with less than 20 years of service unless retired for disability or special Temporary Early Retirement Authority. The Department of Veterans Affairs' Dependency and Indemnity Compensation survivors' program protects against the service-related death of a member; and Social Security benefits and life insurance, if purchased by the member, are available to survivors. Monthly payments (as of 12/01/96) under the Veterans Affairs' program begin at \$833 to a surviving spouse and \$211 for each child under age 18. If there is no surviving spouse, the monthly payment for one child is \$354, \$510 for two, \$662 for three, and an additional \$130 for each child in excess of three.

Insurable interest. The beneficiary receives 55 percent of the member's retirement annuity after premiums for SBP are subtracted.

Deferred retirement. Not applicable.

Minimum/maximum amount of benefit. The survivor spousal annuity may not be greater than 55 percent of the retirement annuity before survivor's age 62 or 35 percent of the retirement annuity beginning at age 62. The minimum spousal annuity may not be less than 55 percent of the minimum elected \$300 base amount before survivor's age 62 or 35 percent of the minimum elected \$300 base amount beginning at age 62.

Reduction of Annuity for Unpaid Prior Service

Not applicable.

Children Benefits

Age of children. Surviving unmarried dependent children must be under age 18 or 22 if full-time student or incapable of self-support due to a disability incurred before age 18 or 22 if a student.

Benefit computation. If spouse and child coverage is selected and the member is survived by a spouse, there is no separate children's annuity. If a surviving spouse dies and spouse and children coverage was selected, children equally divide the survivor annuity equal to 55 percent of the base amount. If children only coverage was selected, children equally divide the annuity equal to 55 percent of the base amount.

Cost-Of-Living Adjustments

Survivors annuities are increased each year for the full increase in the CPI for those members entering service before August 1, 1986. For members

**Appendix I
Features of Selected Federal Survivor
Benefit Plans**

entering service after July 31, 1986, survivors receive the CPI minus 1 percentage point. On the member's 62nd birthday, survivors receive a one-time restoral of the less than full COLAS; then the annual partial COLAS continue.

**Social Security Eligibility
and Benefits**

At age 62, SBP benefits are reduced from 55 percent of base amount to 35 percent when Social Security benefits become available and are expected to be at least 20 percent of base amount.

If member dies before 20 years of service, Social Security survivors' eligibility and benefits are the same as described under the JSAS.

Comments From the Administrative Office of the U.S. Courts

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



LEONIDAS RALPH MECHAM
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

CLARENCE A. LEE, JR.
Associate Director

WASHINGTON, D.C. 20544

April 25, 1997

Mr. Michael Brostek
Associate Director, Federal Management
and Workforce Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Brostek:

Thank you for the opportunity to comment on your draft report, entitled The Judicial Survivors' Annuities System Costs and Benefit Levels.

Introduction

Although noted in the report, we believe that the judges' contribution of \$12.5 million versus the government's contribution of \$6.9 million during the three-year period under study (1993-1995) should be highlighted. Not only have judges contributed more to JSAS than the government during these three years, but JSAS has been funded exclusively by judges' contributions for the preceding four years from 1990 to 1993. As a matter of record, the judges have paid more than the government has contributed to JSAS for the last ten years.

We agree with the report's conclusion that for the long term "the more complete and acceptable calculation of a plan's cost is ... the normal cost." But it is important to note, as the report acknowledges, that the normal cost calculations are based on many "actuarial assumptions about the future ... over the life spans of current and future participants." The normal cost of JSAS is recalculated every year, and it often varies during any three year period. Slight changes in these assumptions cause significant changes in the normal cost. For example, we do not believe that the judges' contributions as a percentage of the normal cost, as presented by GAO, is an accurate measure because it fails to account for increased contributions of judges who will retire in the future. This omission in the report overstates by 34% the added contributions that would be needed from judges to reach one-half of the total estimated normal cost. The remaining small difference could be entirely eliminated by other future developments.

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

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We also do not believe that the report's comparison of survivorship benefits between JSAS and other government pensions is fair because the report fails to fully account for major sources of survivorship benefits included in the other government pension plans, including social security benefits and returns from Thrift Savings Plans. Once these other pension plan components are factored into the calculations, the comparison of survivorship benefits becomes fairer. Not only do the survivorship benefits rise for all federal employees, but the total contribution of judges to pay for survivorship benefits rises and compares favorably with the total contributions of other federal employees. When all the survivorship plans are considered together (social security, Thrift Savings Plan, and fixed annuity) judges pay a total of 7.2% of salary while federal employees pay between 5.04% and 5.68% of salary.

In the end, we agree with the report that direct comparisons cannot be made of employee contribution requirements between JSAS and the other plans that the GAO reviewed. But we must emphasize that the report's failure to fully account for important features of the various federal employee pension plans under study substantially understates the judges' proportionate contribution to JSAS, and at the same time, it understates the survivorship benefits provided to federal employees under other government pension plans. When all the factors are considered, the survivorship plan for judges under JSAS is in line with the plans for other federal employees. The following discussion details our concerns regarding the report.

Judges' Share of Normal Cost Understated

As the draft report points out, direct comparisons cannot be made of employee contribution requirements between the JSAS and the other plans that the GAO reviewed, including CSRS and FERS. In fact, because of the complex structures of CSRS and FERS, the primary plans under which most nonmilitary government employees, including members of Congress, are covered, GAO is unable to identify what percentage of normal cost is paid by CSRS and FERS participants for survivors' benefits.

Without a basis for comparison between the various plans of the participant cost of acquiring the survivor benefits, we believe that it is inappropriate and misleading to present the comparison of spousal benefit rates that is included in Table 2 on page 16 of the draft report. Also, footnote a to Table 2 states that the percentage of salary figures do not include Social Security survivor benefits. The footnotes, however, currently fail to disclose that in addition to Social Security benefits, the Table does not reflect Thrift Savings Plan (TSP) survivor proceeds. While we acknowledge that these percentages are extremely difficult to identify, the combination of omitting these two benefit components has a significant impact on Table 2's presentation. Since the Table expresses benefits as a percentage of salary, the inclusion of these two survivor benefit elements would have a substantially greater impact on the percentages for FERS survivors' benefits than for JSAS survivors, since it is likely that JSAS participants have higher salaries than the general federal employee population. It is the impact of

Now figure 1.

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this omission, coupled with the inability to compare the actual participant costs of the benefits, which we believe render Table 2, as presented, inappropriate and misleading.

JSAS' enrolled actuary has assisted us in suggesting the following changes to the draft report. The first suggested change regards Table 1. Your study uses a fiscal year 1995 weighted average of 2.23 percent for the normal cost rate of JSAS participants. This is the weighted average normal cost for the current participant population, which is comprised of over 90 percent active members and does not take into consideration the fact that many current active members will be contributing at the 3.5 percent rate at some point in the future.

Instead of weighting by current year, we feel this cost element should be weighted over the career of the current members. This treatment is consistent with the use of either the aggregate or entry-age normal cost approach since these consider the future careers of current participants; however, we agree that the entry-age normal cost method is more appropriate. Thus, the revised calculation of the weighted normal cost, which is 2.43 percent using the entry-age normal cost method, is shown in the revised Table 1 below. The table also shows the .55 percent increase in contribution rate that would be needed for the plan members to pay half the cost.

Revised Table 1: JSAS Normal Cost Rates of Participating Judges and the Government,
Fiscal Years 1994-1995

Source of Contribution	JSAS Normal Cost Rates (expressed as a percentage of payroll)			
	Fiscal Year 1994 (Aggregate)	Fiscal Year 1995 (Aggregate)	Average of 1994 and 1995 (Aggregate)	Estimated Average of 1994 and 1995 (Entry Age)
Judges	2.24 %	2.23 %	2.23 %	2.43 %
Government	3.70 %	4.30 %	4.00 %	3.53 %
Total	<u>5.94 %</u>	<u>6.53 %</u>	<u>6.23 %</u>	<u>5.96 %</u>
Increase in contribution to reach half cost			0.89 %	0.55 %

Total Survivorship Benefits in Government Pension Plans Understated

Next we look at the results in Table 2 of the draft report. As stated above, we believe that more information is needed to reflect replacement rates to survivors of each type of participant. Table 2 is revised to include the following, based on information provided by JSAS' enrolled actuary.

- The Social Security death benefit is included. This increases general employee and military benefits relatively more than JSAS benefits because of the different pay levels.
- Employee and employer contributions to the Thrift Savings Plan (TSP) are included. For this, it is assumed that FERS employees make a five percent contribution and receive a five percent match. Under all the CSRS plans, it is assumed the employee makes a five percent contribution without a match. The average participant contribution to FERS is 5.4 percent and to CSRS is 4.2 percent.¹
- The Veterans' Administration death benefit is included in military benefits.

The TSP replacement rate is calculated using JSAS' enrolled actuary's standard methodology. The account balance is calculated assuming a 5 percent contribution, and match if applicable; 7 percent interest rate, and 4.5 percent annual increase in salaries over a participant's career. The accounts were converted to annuities using the 1983 Group Annuity Mortality table, a 7 percent interest rate, and a 4.5 percent annual increase in benefit. Active TSP accounts are converted to straight life annuities payable immediately, while retiree accounts are converted to an annuity with 100 percent continuation to surviving spouses.

The Revised Table 2 below is based on the replacement rates from the GAO study plus the rates associated with the benefits discussed above. Most JSAS members may participate in TSP, but only to the same level as CSRS participants and with no government matching contributions. A lesser number of JSAS members, those covered by FERS, participate in TSP and receive matching government contributions. Therefore, the two columns shown under JSAS span the range of actual participant benefits.

¹ Sullivan, Michael J., Your Thrift Savings Plan, Federal Employees News Digest.

Now figure 1.

See comment 1.

Revised Table 2: Comparison of Maximum Spousal Benefit Replacement Rates Among Selected Plans

Creditable Years of Service	Surviving Spouse's Benefits (expressed as a percentage of salary)						
	5 Percent Contributions to TSP With No Match			5 Percent Contributions to TSP With 5 Percent Match			Military
	JSAS	Member of Congress CSRS	General Employee CSRS	JSAS	Member of Congress FERS	General Employee FERS	
15	42	38	27	47	34	51	37
20	49	47	29	56	43	58	43
30	69	64	43	81	58	73	46
35	77	70	51	92	66	82	46

Judges' Contributions Understated

With the addition of the benefits outlined above, employee contributions also increase. Therefore, Table 3 of the draft report is revised, and also includes an estimate of the percent of employee contributions to the FERS and CSRS attributable to the survivor benefit.

Now table 2.

See comment 2.

Revised Table 3: Participants' Contributions to the Six Federal Survivor Benefit Plans

Federal Survivor Plans	Participants' Contribution Rate	
	Active (Based on Salary)	Retired (Based on Annuity)
JSAS	7.2 %	3.5 %
Tax Court Survivors' Annuity Plan	8.5 %	3.5 %
Court of Veterans Appeals Judges Retirement Plan	8.5 %	3.5 %
CSRS	5.68 %	2.5 % of \$3,600 plus 10 % of excess
FERS	5.04 %	10.0 %
Military	0.0 %	6.5 %

Revised Table 2, while informative, does not show a comparison of the benefits provided to participants derived solely from contributions by the federal government, which is more relevant. This comparison is presented in New Table 2a prepared by JSAS' enrolled actuary

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using a standard approach deducting the benefit produced by the employee contribution from the replacement rate.

See comment 3.

New Table 2a: Comparison of Maximum Spousal Benefit Replacement Rates (Government Provided Only) Among Selected Plans

Creditable Years of Service	Surviving Spouse's Benefits Provided by the Government (expressed as a percentage of salary)						
	5 Percent Contributions to TSP With No Match			5 Percent Contributions to TSP With 5 Percent Match			Military
	JSAS	Member of Congress CSRS	General Employee	JSAS	Member of Congress CSRS	General Employee	
15	19	18	12	24	19	27	26
20	22	21	12	29	24	30	29
30	30	29	17	42	32	38	30
35	32	30	20	47	37	43	30

New Table 2a shows that the employer provided replacement rates for JSAS are within the range of replacement rates of the other systems. Also, the replacement rates for those JSAS members who do not receive a matching TSP contribution are within one percentage point of Members of Congress covered under CSRS.

Once again, I thank you for the opportunity to reply to your draft report.

Sincerely,

 Leonidas Ralph Mecham
 Director

The following are GAO's comments on AOUSC's April 25, 1997, letter.

GAO Comments

1. AOUSC prepared a revised table 2 (our original table 2 is now figure 1 in the report) that included Social Security survivor benefits and TSP investments in the replacement rates for surviving spouses. As described below, the table minimized the difference in Social Security survivor benefits between JSAS and FERS general employees, double-counted Social Security benefits for military members' surviving spouses, included Department of Veterans Affairs' survivor benefits that are not part of the military's SBP plan, and implied that a large number of JSAS participants were receiving matching TSP government contributions.

Social Security retirement and survivor benefits computations are complicated and vary widely, depending on many factors. These factors include the employee's date of birth, earnings averaged over an employee's working years, the ages of the deceased employee and surviving spouse, and the presence of dependent children. Social Security is designed to provide benefits that replace a greater percentage of earnings for lower-paid employees than for higher-paid employees. Therefore, unlike the specific spousal benefit replacement rates for the various federal survivor benefit plans that we provided in figure 1 in the report, replacement rates for Social Security survivor benefits for each of the years of service in figure 1 would vary widely because of the many factors noted above.

The information presented in AOUSC's revised table 2 required that certain assumptions be made in order to estimate Social Security survivor benefits. AOUSC's assumptions maximized benefits to the surviving spouse of FERS general employees and therefore minimized the difference between JSAS and FERS general employees' surviving spouses. AOUSC's assumptions included that (1) JSAS and Members of Congress under FERS and CSRS would be receiving benefits based on the maximum taxable earnings under Social Security, and FERS general employees would be receiving benefits based on one-half of Social Security taxable earnings and (2) participants for all these plans are age 62 or older—because JSAS participants' average age is 63.

Based on these AOUSC assumptions, JSAS and Members of Congress surviving spouses would have received the maximum Social Security benefits, and their replacement rates of salary from Social Security alone would be lower than for FERS general employees because of the Social

Security formula. The Social Security formula provides a higher replacement rate for lower-salaried workers. The magnitude of the effect that earnings can have on replacement rates is best illustrated with an example. The Social Security replacement rate of final salary for a FERS general employee at age 62 with 30 years of service is 26 percent with final year earnings of \$30,000 and 14 percent with final year earnings of \$100,000.²⁶ The range of Social Security replacement rates, for this example, is 14 to 26 percent, depending on the earnings levels of the employee. Therefore, the replacement rate should decrease by 12 percentage points in AOUSC's revised table 2 for a higher-salaried FERS general employee with 30 years of service.

AOUSC also assumed that the participants for its Social Security computations were age 62 or older. This assumption provided a higher benefit level to FERS general employees than would be expected. In reality, JSAS surviving spouses are more likely than FERS surviving spouses to receive the full survivor benefits because the JSAS participants on average are older than FERS participants. While the average age of JSAS participants is 63, the average age of FERS general employees is 40, and the average age of death for employed FERS participants is 51. Under Social Security guidelines, a surviving spouse age 65 or older receives 100 percent of the employee's Social Security benefits, and those ages 60 to 64 receive about 71 to 94 percent. A surviving spouse under age 60 with a dependent child receives 75 percent of the employee's Social Security benefits. A surviving spouse under age 60 with no dependent child generally receives no benefits until age 60.

AOUSC's revised table 2 also double-counted Social Security survivor benefits for the surviving spouses of military members. AOUSC added the Social Security benefits on top of the military's SBP benefits to arrive at their revised replacement rates. Throughout the report, we noted that the military's SBP benefits are reduced to 35 percent of the military member's retirement pay when the surviving spouse reaches age 62 to reflect the availability of Social Security benefits. Therefore, the Social Security benefits should not have been added to the military's SBP benefits; they should have replaced a portion of them when the surviving spouse reached age 62. Including Social Security benefits overstated the military's replacement rates, increasing them, for instance, from 16 to 43 percent for a member with 20 years of creditable service.

²⁶Federal Pensions: Thrift Savings Plan Has Key Role in Retirement Benefits (GAO/HEHS-96-1, Oct. 19, 1995).

Additionally, AOUSC added an amount for the Department of Veterans Affairs' Dependency and Indemnity Compensation survivors' program benefits for service-related deaths if a military member has less than 20 years of service. We acknowledged the availability of these survivor benefits in the report, but we did not include them in the replacement rate computations because they are not part of the military's SBP survivor benefit plan.

AOUSC's revised table 2 also included JSAS judges participating in TSP with matching 5 percent government contributions. Although AOUSC noted that most JSAS judges may participate in TSP by contributing up to 5 percent of their salary with no matching government contributions, a lesser number of JSAS judges—those who are also covered by FERS—may participate in TSP up to 10 percent of salary or a maximum of \$9,500 with matching government contributions up to 5 percent. According to an AOUSC official, there are 143 Bankruptcy, Magistrate, and Court of Federal Claims judges who currently participate in both JSAS and FERS. AOUSC's presentation in the revised table 2 did not note that only about 10 percent of JSAS participants receive the 5 percent government matching, and thus implied that a large number of JSAS participants receive the matching government contributions, when in fact, the numbers are relatively small.

2. AOUSC prepared a revised table 3 (our original table 3 is now table 2 in the report) to show participants' combined contributions to Social Security, TSP, and the federal survivor benefit plans. There are flaws in AOUSC's revised table 3. Its revised table (1) did not include, as it should have, participant contributions to the survivorship portion of Social Security for active participants—except for CSRS general employees' who do not contribute to Social Security—and (2) did include, when it should not have, the Tax Court judges' contributions to TSP because—as stated in the report—Tax Court judges cannot participate in TSP. Additionally, JSAS' enrolled actuary provided AOUSC with estimates of the percentages of employee contributions attributable to FERS and CSRS survivor benefits. However, OPM, the plan administrator of CSRS and FERS, does not identify the portion of CSRS and FERS contributions that are attributable to survivor benefits, as we had also stated in the report.

3. AOUSC prepared a new table 2a to replace its own revised table 2 to show a comparison of surviving spouse benefits derived solely from the contributions of the federal government for the federal survivor benefit plans, including Social Security benefits and TSP investments. We believe that the same reasons for caution, as stated in our comment 1 and 2,

Appendix II
Comments From the Administrative Office
of the U.S. Courts

should be used in drawing conclusions from this table because AOUSC's underlying methodology was the same.

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