

April 2013

# FEDERAL COURTHOUSES

## Recommended Construction Projects Should Be Evaluated under New Capital- Planning Process



Highlights of [GAO-13-263](#), a report to congressional requesters

## Why GAO Did This Study

Rising costs and fiscal challenges have slowed the multibillion-dollar courthouse construction program of the judiciary and the General Services Administration (GSA). In 2006, the judiciary developed AMP to address increasing costs and incorporate best practices and has evaluated about 67 percent of its courthouses under the new system. As requested, GAO assessed changes introduced with AMP. GAO examined: (1) the extent to which the AMP process aligns with leading practices and provides information needed for informed decision making and (2) the extent to which courthouse projects recommended for funding in fiscal years 2014 to 2018 were assessed under the AMP process. GAO compared the judiciary's capital-planning practices with leading practices, analyzed courthouse-planning documents, and interviewed officials from the judiciary and GSA. GAO visited three courthouses selected because they were highly ranked by the judiciary for replacement, although observations from these site visits cannot be generalized.

## What GAO Recommends

The judiciary should (1) provide more information to decision makers related to how projects qualify for new construction, any alternatives the judiciary considered, and their cost and (2) impose a moratorium on the projects currently on the judiciary's 5-year plan until they are evaluated under AMP. The judiciary partially agreed with the first recommendation and disagreed with the second recommendation. GAO believes that a moratorium would allow the judiciary to ensure that it makes the best investments in courthouse construction.

View [GAO-13-263](#). For more information, contact Mark L. Goldstein at (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov).

April 2013

# FEDERAL COURTHOUSES

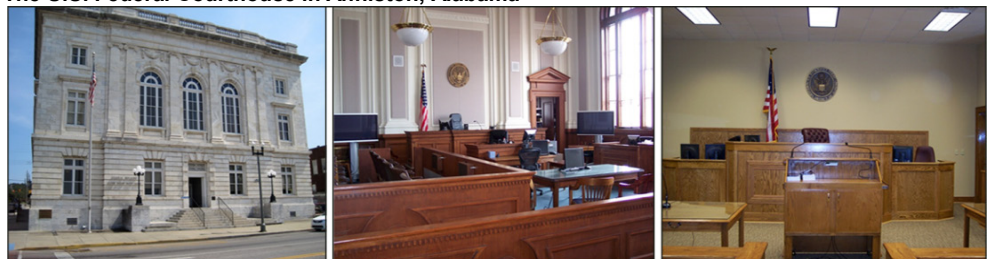
## Recommended Construction Projects Should Be Evaluated under New Capital-Planning Process

### What GAO Found

The Asset Management Planning (AMP) process represents progress by the federal judiciary (judiciary) in better aligning its capital-planning process with leading capital-planning practices, but its 5-year plan for fiscal years 2014 to 2018—the document the judiciary uses to request courthouse construction projects—lacks transparency and key information on how projects qualify for new construction, alternatives the judiciary considered, and their cost. For example, the plan lists costs for the next phase of the 12 recommended courthouse projects, which have several phases, but does not list previous funding or ongoing annual costs for the projects. As a result, the plan lists about \$1 billion in costs for the 12 projects, but the projects would actually cost the federal government an estimated \$3.2 billion over the next 20 years. Congress has appropriated a small share of the money needed for the projects, and most will need design changes before construction can begin. As a result, there is a risk that congressional funding decisions could be made without complete and accurate information. However, with this information, decision makers could weigh current-year budget decisions within the context of projects' expected future costs, spur discussion and debate about actions to address them, and put the judiciary's requests in context with other federal spending.

Ten of the 12 recommended projects were not evaluated under the AMP process. Judiciary officials said that they did not want to delay the current projects or force them to undergo a second capital-planning process after they had already been approved. Two courthouse projects from a previous 5-year plan that were assessed under AMP were removed from the list and are now ranked behind more than 100 other courthouse construction projects. Furthermore, 10 of the 12 recommended construction projects do not qualify for a new courthouse under the AMP criterion, which requires that new courthouses need two or more additional courtrooms. These conditions call into question the extent to which the projects remaining on the 5-year plan represent the judiciary's most urgent projects and whether proceeding with these projects represents the most fiscally responsible proposal. While 10 additional AMP evaluations would involve some additional costs, not conducting those evaluations could involve spending \$3.2 billion over the next 20 years on courthouses that may not be the most urgent projects.

The U.S. Federal Courthouse in Anniston, Alabama



Source: GAO.

Note: This courthouse currently has one senior judge and one bankruptcy judge and 2 courtrooms. The judiciary recommends building a new courthouse even though the AMP process requires that new courthouse construction require at least 2 additional courtrooms based on the judges located there.

---

# Contents

---

Letter		1
	Background	3
	AMP Process Partially Aligns with Several Leading Practices but Does Not Provide Needed Information to Decision Makers	8
	Most Courthouse Projects Were Not Evaluated under AMP Process and Do Not Meet AMP Criterion for New Construction	18
	Conclusion	23
	Recommendations	24
	Agency Comments	25
Appendix I	Objectives, Scope and Methodology	29
Appendix II	Judiciary's Courtroom-sharing Policy for New Construction	32
Appendix III	Judiciary's Asset Management Planning Process Urgency Evaluation Matrix for New Construction Projects	33
Appendix IV	Judiciary's New Courthouse Projects for Fiscal Years 2012 to 2016 and Fiscal Years 2014 to 2018	34
Appendix V	Comments from the Federal Judiciary	35
Appendix VI	GAO Contact and Staff Acknowledgments	58
Tables		
	Table 1: Judiciary's Estimated 5-Year Plan Project and Annual Rent Costs in 2013 dollars	15
	Table 2: Courtroom Counts in Judiciary's 5-year Plan for Courthouses	20

---

## Figures

Figure 1: Judiciary's Asset Management Planning Process (2008 to 2013)	6
Figure 2: Leading Capital-planning Practices, as Outlined in OMB and GAO Guidance, and Extent to Which AMP Process Aligns with Them	9
Figure 3: Judiciary 5-year Courthouse Project Plan for Fiscal Years 2014 to 2018, as of September 12, 2012.	13
Figure 4: Funding Status of Judiciary's 5-Year Plan for Courthouse Projects, 2013.	16
Figure 5: Photographs of the U. S. Federal Courthouse in Anniston, Alabama.	22

---

## Abbreviations List

AMP	Asset Management Planning
AOUSC	Administrative Office of the United States Courts
GSA	General Services Administration
LFRP	Long Range Facilities Plan
OMB	Office of Management and Budget

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



United States Government Accountability Office  
Washington, DC 20548

---

April 11, 2013

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Lou Barletta  
Chairman  
The Honorable Eleanor Holmes Norton  
Ranking Member  
Subcommittee on Economic Development,  
Public Buildings, and Emergency Management  
Committee on Transportation and Infrastructure  
House of Representatives

The Honorable Jeff Denham  
House of Representatives

Since the early 1990's, the federal judiciary (judiciary) and the General Services Administration (GSA) have undertaken a multibillion-dollar federal courthouse construction program. To date this program has resulted in the completion of 78 new courthouses or annexes<sup>1</sup> and 16 projects in various stages of development. However, rising costs and other budget priorities have slowed the construction program. In addition, we found in 2010 that recent federal courthouses had been constructed larger than necessary because of poor planning, oversight, and inefficient courtroom use.<sup>2</sup> Specifically, 33 federal courthouses completed from 2000 to 2010 included 3.56 million square feet of extra space that cost an estimated \$835 million to construct and \$51 million annually to operate and maintain. We recommended that GSA should: (1) ensure that courthouses are within their authorized size or notify congressional committees; and that the judiciary should: (2) retain caseload projections

---

<sup>1</sup>An annex is an addition to an existing building. For the purpose of this report, projects that include construction of an annex are considered new courthouse projects.

<sup>2</sup>GAO, *Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, [GAO 10-417](#) (Washington, D.C.: June 21, 2010).

---

to improve the accuracy of its 10-year judge planning and (3) establish and use courtroom-sharing policies based on scheduling and use data. GSA and the judiciary agreed with the recommendations, but expressed concerns with GAO's methodology and key findings. GAO believes these to be sound, as explained in the report. Our recommendations have not yet been implemented.

In light of this program history and the federal government's current fiscal challenges, you asked us to review the judiciary's current plans for new courthouse construction. We examined (1) the extent to which the judiciary's capital-planning process aligns with leading practices and provides information needed for informed decision making and (2) the extent to which courthouse projects recommended for funding in fiscal years 2014 to 2018 were assessed under the judiciary's current capital-planning process.

To determine the extent to which the judiciary's capital-planning process aligns with leading practices and provides the information needed for informed decision making, we interviewed judiciary and GSA officials about and analyzed documentation on the judiciary's capital-planning process. We then compared judiciary's capital-planning practices with leading capital-planning practices from the Office of Management and Budget's (OMB) *Capital Programming Guide*<sup>3</sup> and GAO's *Executive Guide*.<sup>4</sup> We reviewed documentation on the status of courthouse construction projects and information about other federal buildings occupied by the judiciary. We reviewed GSA data on costs of construction and tenant improvements at two courthouse projects, one completed in 2010 and one completed in 2011. We reviewed GSA's and the judiciary's estimated construction costs for proposed courthouse projects. We assessed the judiciary and GSA data for completeness and determined that the data were sufficiently reliable for the purposes of this report.

To determine the extent to which the current courthouse projects recommended for funding in fiscal years 2014 to 2018 were assessed under the judiciary's current capital-planning process, we reviewed the

---

<sup>3</sup>Office of Management and Budget, *Supplement to Circular No. A-11: Capital Programming Guide* (Washington, D.C.: July 2012).

<sup>4</sup>GAO, *Executive Guide: Leading Practices in Capital Decision-Making*, [GAO/AIMD-99-32](#) (Washington, D.C.: December 1998).

---

judiciary's documents outlining the projects recommended for funding for fiscal years 2008 through 2018. We also examined judiciary documents regarding strategic planning, capital-planning, existing courthouse evaluations, ratings of existing courthouse deficiencies, numbers of existing and projected judgeships, and policies on courtroom-sharing by judges. We reviewed congressional authorizations and funding appropriations for courthouse projects and GSA information on federal buildings, existing and planned federal courthouses, courthouse design, and federal historic properties. We interviewed judiciary and GSA officials in Washington, D.C., and visited federal courthouses in Anniston, Alabama, and Macon and Savannah, Georgia. We selected these sites because the courthouses were highly ranked by the judiciary for replacement. While our site-visit observations cannot be generalized to all federal courthouses, they provide insights into the physical conditions at some historic courthouses.<sup>5</sup>

We conducted this performance audit from March 2012 to April 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I contains additional information on our scope and methodology.

---

## Background

The U.S. district courts are the trial courts of the federal court system. There are 94 federal judicial districts—at least one for each state, the District of Columbia, and four U.S. territories—organized into 12 regional circuits. Each circuit has a court of appeals whose jurisdiction includes appeals from the district and bankruptcy courts<sup>6</sup> located within the circuit,

---

<sup>5</sup>GSA data shows 142 of the courthouses rented to judiciary are listed in or eligible for the National Register of Historic Places, the nation's listing of historic properties. Typically, these historical properties are at least 50 years old. The National Historic Preservation Act of 1996 (Pub. L. No. 89-665, 80 Stat. 915), as amended, requires agencies to manage historic properties under their control and jurisdiction in a manner that considers the effects of their actions on historic preservation. See, e.g., 16 U.S.C. §§ 470(f), 470(h)(2).

<sup>6</sup>Each district also includes a U.S. bankruptcy court as a unit of the district, except for three U.S. territories (U.S. Virgin Islands, Guam, and the Northern Mariana Islands) where bankruptcy cases are heard by the district court.

---

as well as appeals from decisions of federal administrative agencies.<sup>7</sup> The Administrative Office of the United States Courts (AOUSC) within the judicial branch carries out a wide range of services for the federal judiciary, including capital-planning. The Judicial Conference of the United States (Judicial Conference) supervises the Director of the AOUSC and is the principal policy-making body for the federal judiciary and recommends national policies and legislation on all aspects of federal judicial administration.

Federal courthouses can house a variety of appellate, district, senior district, magistrate, or bankruptcy judges as well as other court and non-court-related tenants. Prior to 2008, the judiciary did not require judges to share courtrooms, except in situations where the courthouse was out of space.<sup>8</sup> In 2008, the Judicial Conference adopted new policies for courtroom-sharing (1) between senior district judges and (2) between magistrate judges. In 2011, the Judicial Conference adopted a courtroom-sharing policy for bankruptcy judges. These policies apply to new courthouse projects and existing courthouses when there is a new space need that cannot otherwise be accommodated. (See app. II for more information on judiciary's courtroom-sharing policies.) The judiciary has also been studying the feasibility of an appropriate sharing policy for district judges in courthouses with more than 10 district judges, but has not yet finalized a policy and could not tell us when or if it expected to do so. Our 2010 report examined judiciary data on courtroom usage and found that there are additional opportunities for significant cost savings through courtroom-sharing, particularly for district judges.<sup>9</sup>

The judiciary's previous capital-planning process, which it used from 1988 to 2004, assessed a new courthouse project's urgency based on four criteria: (1) the year in which the existing courthouse was expected to run out of space, (2) the number and nature of security deficiencies in the existing courthouse, (3) the number and nature of infrastructure and

---

<sup>7</sup>There are also two trial courts (the U. S. Court of International Trade and the U.S. Court of Federal Claims) and one court of appeals (the U. S. Court of Appeals for the Federal Circuit) with nationwide jurisdiction over certain types of cases.

<sup>8</sup>Appellate judges, however, have always shared courtrooms because they sit in panels of three or more.

<sup>9</sup>[GAO 10-417](#). We recommended that the judiciary establish and use courtroom-sharing policies based on scheduling and use data.



---

operational deficiencies in the existing courthouse, and (4) the current number of judges who do not have a permanent courtroom and chambers in the existing courthouse, plus the projected number of judges over the 10-year planning period who will not have a courtroom and chambers. From fiscal years 2005 to 2006, as a cost containment initiative, the judiciary imposed a moratorium on new courthouse construction while it reevaluated its capital-planning process.

In 2008, the judiciary began using a new capital-planning process, called the Asset Management Planning (AMP) process, to assess, identify, and rank its space needs. According to judiciary officials, the AMP process addresses concerns about growing costs and incorporates best practices related to capital-planning. The AMP process includes several steps beginning with the completion of a district-wide Long Range Facilities Plan (LFRP). Collectively, the AMP process:

- documents courthouse space conditions and district space needs based, in part, on the judiciary's AMP process rules and building standards as specified in the *U.S. Courts Design Guide*,<sup>10</sup>
- identifies space needs on a building-specific and citywide basis; and
- develops housing strategies that can include construction of a new courthouse or annex and renovation projects.

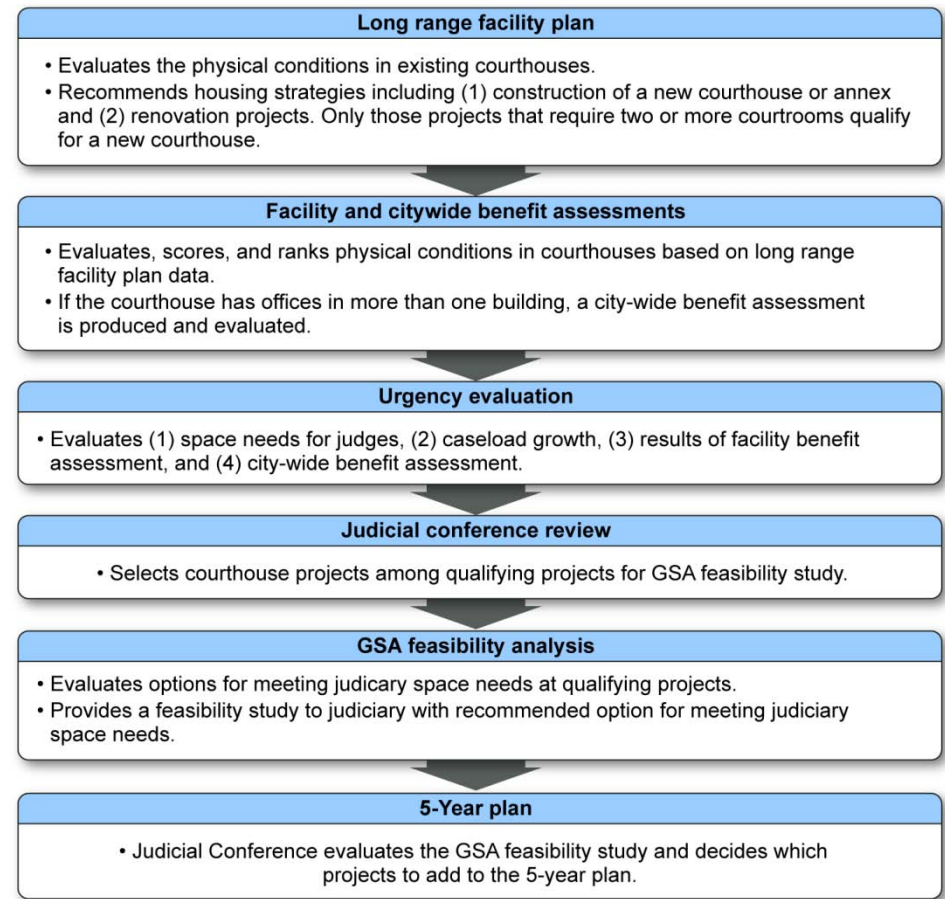
The AMP process results in an urgency score for construction or renovation based primarily on the current and future need for courtrooms and chambers and the condition assessment of the existing building (see app. III). The AMP process establishes criteria for qualifying for new courthouse construction, such as requiring that an existing courthouse have a chamber for each judge and needing two or more additional courtrooms. Judiciary officials told us that unlike the previous capital-planning process, a new courthouse could no longer be justified as part of the AMP process based solely on security or operational deficiencies. The judiciary has chosen to improve security within existing courthouse rather than replace them with new courthouses. After the Judicial Conference identifies courthouse projects, GSA conducts feasibility studies to assess alternatives for meeting the judiciary's space needs and recommends a preferred alternative. The judiciary adopts the GSA

---

<sup>10</sup> Judicial Conference of the United States, *U.S. Courts Design Guide 2007* (Washington, D.C.: 2007). The *U.S. Courts Design Guide* specifies the judiciary's criteria for designing new court facilities and sets the space and design standards for court-related elements of courthouse construction.

recommended alternative, which may differ from the alternative recommended in the AMP process. For example, a project may not qualify for new courthouse construction under the AMP process, but GSA may determine through its feasibility study that new construction is the most cost-efficient, viable solution. See figure 1 for the judiciary’s current process for selecting and approving new courthouse construction projects.

**Figure 1: Judiciary’s Asset-Management Planning Process (2008 to 2013)**



Source: GAO analysis of federal judiciary data.

Part of the judiciary’s capital-planning—both the previous and current processes—has been to periodically communicate its facility decisions for construction projects via a document known as the Five Year Courthouse Project Plan (5-year plan). The 5-year plan is a one-page document that

---

lists proposed projects by fiscal year and the estimated costs for various project phases (site acquisition, design, or construction) as approved by the Judicial Conference. The judiciary uses the plan to communicate its most urgent projects to Congress and other decision makers. Previously, we found that judiciary's 5-year plans did not reflect the most urgently needed projects and lacked key information about the projects selected—such as a justification for the project's priority level.<sup>11</sup>

GSA reviews its courthouse studies with the judiciary and forwards approved projects for new courthouses to the Office of Management and Budget (OMB) for review. If approved by OMB, GSA then submits requests to congressional authorizing committees for new courthouse projects in the form of detailed descriptions, or prospectuses,<sup>12</sup> for authorizing acquisition of a building site, building design, and construction. Following congressional authorization and the appropriation of funds for the projects, GSA manages the site, design, and construction phases. After occupancy, GSA charges federal tenants, such as the judiciary, rent for the space they occupy and for their respective share of common areas, including mechanical spaces. In fiscal year 2012, the judiciary's rent payments to GSA totaled over \$1 billion for approximately 42.4 million square feet of space in 779 buildings that include 446 federal courthouses.

Using the AMP process, the judiciary is currently evaluating all of the 446 federal courthouses it leases from GSA. As of October 2012, the judiciary has conducted AMP evaluations for 298 (about 67 percent) of all federal courthouses. Judiciary officials told us that they do not expect to finish

---

<sup>11</sup>GAO, *Courthouse Construction: Improved 5-Year Plan Could Promote More Informed Decisionmaking*, [GAO/GGD-97-27](#) (Washington, D.C.: Dec. 31, 1996). In this report, we recommended that the judiciary take several steps to make the 5-year plan a more useful tool for helping Congress to better understand project priorities and individual project needs. The judiciary concurred with our recommendations.

<sup>12</sup>Before Congress makes an appropriation for a proposed project, GSA submits detailed project descriptions called prospectuses to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, for authorization by these committees when the proposed construction, alteration, or acquisition of a building to be used as a public building exceeds a specified dollar threshold. For purposes of this report, we refer to these committees as "authorizing committees" when discussing the submission of the prospectuses and providing additional information relating to prospectuses to these committees. Furthermore, for purposes of this report, we refer to approval of these projects by these committees as "congressional authorization." See 40 U.S.C. § 3307.

---

evaluating all of the courthouses until October 2015 and would take another 18 to 24 months to complete the LRFPs, dependent upon the availability of funding.

---

---

## AMP Process Partially Aligns with Several Leading Practices but Does Not Provide Needed Information to Decision Makers

---

### AMP Process Partially Aligns with Several Leading Practices in Capital Planning














The AMP process, which the judiciary has applied to about 67 percent of its courthouses, represents progress by the judiciary in aligning its capital-planning process with leading capital-planning practices, but the document the judiciary uses to request courthouse construction projects lacks transparency and key information. We have previously reported that prudent capital-planning can help agencies maximize limited resources and keep capital acquisitions on budget, on schedule, and aligned with mission needs and goals.<sup>13</sup> Figure 2 summarizes leading capital-planning practices and our assessment of the extent to which the AMP process aligns with those practices. For our analysis of judiciary's planning practices, we focused on the judiciary's implementation of the concepts that underlie the planning phase of OMB and GAO guidance, including linking capital-planning to an agency's strategic goals and objectives and developing a long-term capital investment plan.<sup>14</sup>

---

<sup>13</sup>GAO, *Budget Issues: Agency Implementation of Capital Planning Principles Is Mixed*, [GAO-04-138](#) (Washington, D.C.: Jan. 16, 2004) and GAO, *Federal Capital: Three Entities' Implementation of Capital Planning Principles Is Mixed*, [GAO-07-274](#) (Washington, D.C.: Feb. 23, 2007).

<sup>14</sup>[GAO/AIMD-99-32](#) and OMB, *Capital Programming Guide*.

**Figure 2: Leading Capital-Planning Practices, as Outlined in OMB and GAO Guidance, and Extent to Which AMP Process Aligns with Them**

Planning practices	Description	Extent AMP process aligns with leading practice
<b>Strategic linkage</b> 	Capital planning provides a long-range plan for the capital asset portfolio to meet an agency's goals and objectives. Strategic and annual performance plans should identify capital assets and define how they will help the agency achieve its goals and objectives.	
<b>Needs assessment and gap identification</b> 	A needs assessment and gap identification identifies resources needed to fulfill immediate requirements and anticipated needs based on results-oriented goals and objectives that flow from an organization's mission. It considers the capability of existing resources and makes use of an accurate up-to-date inventory of capital assets and information such as asset condition and estimated cost.	
<b>Alternatives evaluation</b> 	Agencies should determine how best to bridge performance gaps by identifying and evaluating alternatives, including options such as human capital. Before choosing to purchase or construct a capital asset, leading organizations carefully consider a wide range of alternatives.	
<b>Review and approval framework with established criteria for selecting capital investments</b> 	Agencies should establish and follow a formal process for senior management to review and approve proposed capital assets. The cost of a proposed asset, the level of risk involved in acquiring the asset, and its importance to achieving the organization's mission should be considered when defining criteria for executive review. Proposed capital investments should be compared to one another to create a portfolio of major assets ranked in priority order.	
<b>Long-term capital investment plan</b> 	The long-term capital plan should be the final and principal product resulting from an agency's capital planning process. The capital plan, covering 5 years or more, should result from an executive review process that has determined the proper mix of existing assets and new investments needed to fulfill the organization's mission, goals, and objectives, and should reflect decision makers' priorities for the future. Leading organizations update long-term capital plans annually or biennially. Agencies are encouraged to include certain elements in their capital plans, including a statement of the agency mission, strategic goals, and objectives; a description of the agency's planning process; baseline assessments and identification of performance gaps; and a risk management plan.	
<p>  Limited alignment – missing a majority of linkage to GAO and OMB capital planning leading practice   Partial alignment – missing less than a majority of linkage to GAO and OMB capital planning leading practice   Fully Aligned - AMP process fully links to GAO and OMB capital planning leading practice </p>		

Sources: GAO and OMB.

---

Several aspects of the AMP process partially align with leading capital-planning practices, but none fully align and the 5-year plan only aligns to a limited extent—which we discuss further in this report. Here are some examples to illustrate partial alignment:

- **Strategic Linkage.** The judiciary’s strategic plan links to its management of capital assets, but the AMP process does not link to the strategic plan. For example, the AMP process documents we reviewed did not explain how the process helps achieve the goals and objectives in the judiciary’s current strategic plan,<sup>15</sup> which are organized around seven issues: providing justice; the effective and efficient management of public resources; the judiciary workforce of the future; harnessing technology’s potential; enhancing access to the judicial process; the judiciary’s relationships with the other branches of government; and enhancing public understanding, trust, and confidence. However, after our review, a judiciary official told us that the Long Range Facility Plans (LRFP) currently under development would include a reference to the strategic plan.
- **Needs Assessment and Gap Identification.** The AMP process has improved judiciary’s needs assessment and gap analysis by establishing a comprehensive, nationwide 328-factor study for every courthouse, whereas the previous process was not as comprehensive and only assessed courthouses when requested by a local judicial district.<sup>16</sup> The AMP process evaluates the degree to which existing facilities support court operations by applying space functionality standards, security, and building condition factors. However, cost estimates supporting the judiciary’s needs are incomplete, as discussed later in this report.
- **Alternatives Evaluation.** The AMP process establishes a review and approval framework criteria for justifying new construction, whereas none existed in the previous process. The AMP process evaluates some alternatives, such as renovating existing courthouses to meet needs, but it is unclear if the judiciary considered other options, such as courtroom-sharing in the existing courthouse. Assessing a wide-range of alternatives would help the judiciary ensure that it evaluated

---

<sup>15</sup>The Judicial Conference of the United States: [Strategic Plan for the Federal Judiciary](#) (Washington, D.C.: Sept. 14, 2010).

<sup>16</sup> We did not review the appropriateness of criterion used by judiciary in its AMP process.



---

other, less costly, approaches to bridging the performance gap before recommending new construction.

- **Review and Approval Framework with Established Criteria for Selecting Capital Investments.** The AMP process includes a review and approval framework with criteria, such as courthouses needing two or more courtrooms to qualify for a new courthouse project. However, courtroom deficits are not apparent in most projects reported in the 5-year plan.
- **Long-Term Capital Investment Plan.** Judiciary officials with whom we spoke agreed that the 5-year plan is not a long-term capital investment plan, but it is what the judiciary uses to document its request for new courthouse construction to decision makers. The one-page 5-year plan document does not reflect the depth of the AMP process, describe all other projects that the judiciary considered, or indicate how the projects chosen will help fulfill the judiciary's mission, goals, and objectives.

Two courthouse projects illustrate how the AMP process has changed the way the judiciary evaluates its need for new courthouses. Specifically, two projects listed on a previous 5-year plan (covering fiscal years 2012 through 2016) were re-evaluated under AMP—San Jose, California, and Greenbelt, Maryland. Both had ranked among the top 15 most urgent projects nationwide under the previous capital-planning process, and as such, the judiciary prioritized them for new construction in 2010. However, after the judiciary evaluated the San Jose and Greenbelt projects under the AMP process, their nationwide rankings fell to 117 and 139, respectively. Judiciary officials explained that this drop was largely because of the completion of additional AMP assessments, coupled with the reduced space needs because of courtroom-sharing. Following the change in rankings, GSA and the judiciary determined that judiciary's needs could alternatively be addressed through repair and alteration projects that reconfigure existing space. The judiciary added that its decision saved taxpayer money. As a result, at the request of the judiciary, the Judicial Conference of the United States removed the two projects from the 5-year plan.

---

## Current 5-Year Plan Lacks Transparency, and \$1-Billion Cost Estimate Is Not Comprehensive

The judiciary's current 5-year plan—the end product of the judiciary's capital-planning process—does not align with leading practices for a long-term capital investment plan in a number of ways. The plan does not provide decision makers with detailed information about proposed construction projects or how they were selected. The one-page document lists each project by city name, year, and dollar estimate for the next phase of the project's development as shown in figure 3. The one-page plan also provides the project's urgency score from the judiciary's capital-planning process. However, the document does not specify whether the scores were developed under the old process or the AMP process. Unlike a long-term capital investment plan—usually the end product under leading capital-planning practices—the 5-year plan lacks complete cost and funding information, linkage to the judiciary's strategic plan, and information on why projects were selected. Specifically, while courthouses provide facilities for the judiciary to accomplish goals set out in its strategic plan, such as enhancing access to the judicial process, the 5-year plan contains no mention of the strategic plan. In addition, the 5-year plan does not include a discussion of the AMP process and criteria; a schedule of when the AMP process will be completed; and details on the alternatives considered during the process, such as whether the judiciary's courtroom-sharing policy was applied prior to requesting a new courthouse project.



**Figure 3: Judiciary's 5-year Courthouse Project Plan for Fiscal Years 2014 to 2018, as of September 12, 2012**

<b>Five-Year Courthouse Project Plan for FYs 2014-2018</b> <b>As Approved by the Judicial Conference of the United States</b> <b>September 11, 2012</b> (estimated dollars in millions)				
<b>FY 2014</b>			<b>Cost</b>	<b>Score</b>
1	Mobile, AL*	Add'l. C	\$54.9	59.8
2	Nashville, TN	Add'l. S&D / C	\$144.0	67.3
3	Savannah, GA	Add'l. C	\$95.5	61.3
4	Norfolk, VA	Add'l S&D	\$12.0	57.4
			<b>\$306.4</b>	
<b>FY 2015</b>			<b>Cost</b>	<b>Score</b>
1	San Antonio, TX	Add'l. S&D / C	\$117.4	61.3
2	Charlotte, NC	C	\$165.7	58.5
3	Greenville, SC	C	\$78.8	58.1
4	Harrisburg, PA	C	\$118.6	56.8
			<b>\$480.5</b>	
<b>FY 2016</b>			<b>Cost</b>	<b>Score</b>
1	Norfolk, VA	C	\$104.7	57.4
2	Anniston, AL	Add'l. D / C	\$41.0	57.1
3	Toledo, OH	C	\$109.3	54.4
			<b>\$255.0</b>	
<b>FY 2017</b>			<b>Cost</b>	<b>Score</b>
1	Chattanooga, TN	S&D	\$21.5	37.3
2	Des Moines, IA	S&D	\$43.0	35.3
			<b>\$64.5</b>	
<b>FY 2018</b>			<b>Cost</b>	<b>Score</b>
			<b>\$0.0</b>	
S = Site; D = Design; C = Construction; Addl. = Additional All cost estimates subject to final verification with GSA.				
* Congress provided \$50.0 out of \$104.9 million needed for Mobile, AL in December 2009				

Source: Federal Judiciary.

Note: The higher the "score," the greater the space need urgency.

---

The 5-year plan is not transparent and does not provide key funding information, such as total estimated project costs. Specifically, it lists about \$1.1 billion in estimated costs, which are the funds needed for that specific 5-year period. However, these costs only include part of the project phases. The estimated cost of all project phases—site acquisition, building design, and construction—comes to \$1.6 billion in 2013 dollars.<sup>17</sup> In addition, while no longer included in the 5-year plan, the judiciary estimated that it would need to pay GSA \$87 million annually in rent, or \$1.6 billion over the next 20 years,<sup>18</sup> to occupy these courthouses if constructed. Table 1 describes our analysis of judiciary’s data for the estimated cost of all phases and projected rent costs that total almost \$3.2 billion. However, even though the \$3.2-billion estimate provides a more complete presentation of the project costs, that estimate could change based on GSA’s redesign of projects because of changes in the judiciary’s needs. In addition, the \$3.2-billion estimate does not include life-cycle costs, such as furniture and GSA disposal of existing facilities, which would also have to be included for the cost estimate to be comprehensive. GAO<sup>19</sup> and OMB<sup>20</sup> have established that estimates of life-cycle costs<sup>21</sup> are necessary for accurate capital-planning.

---

<sup>17</sup>Inflated to current year based upon averages of monthly indexes from U.S. Department of Labor, Bureau of Labor Statistics.

<sup>18</sup>GSA charges judiciary rent based upon the 20-year return on investment of the cost of courthouse construction. GAO analysis of rent is based on OMB published discount rate. OMB, [2013 Discount Rates for OMB Circular No. A-94](#), Memorandum M-13-04 (Washington, D.C.: Jan. 24, 2013).

<sup>19</sup>GAO, *Cost Estimating And Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, [GAO-09-3SP](#) (Washington, D.C.: March 2009); [GAO-04-138](#) and [GAO-07-274](#).

<sup>20</sup>OMB, [Capital Programming Guide](#).

<sup>21</sup>OMB’s [Capital Programming Guide](#) defines the cost of a capital asset is its full life-cycle cost, including all direct and indirect initial costs for planning, procurement, operations, maintenance, and disposal.

**Table 1: Judiciary's Estimated 5-year Plan Project and Annual Rent Costs in 2013 Dollars**

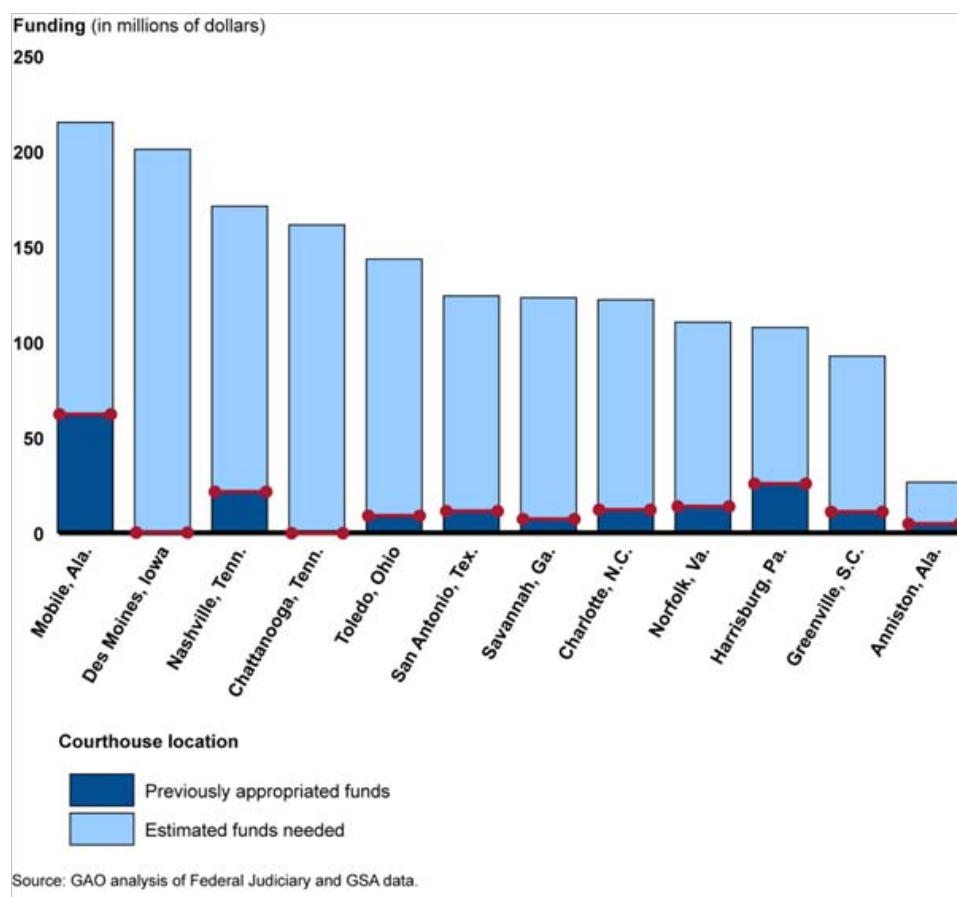
<b>Proposed courthouse by location</b>	<b>Estimated project costs (\$ Millions)</b>	<b>Estimated annual rent costs (\$ Millions)</b>
Mobile, AL	218.0	12.2
Nashville, TN	173.4	8.5
Savannah, GA	111.9	6.2
San Antonio, TX	123.8	9.6
Charlotte, NC	145.4	6.9
Greenville, SC	93.9	5.4
Harrisburg, PA	109.0	5.0
Norfolk, VA	125.8	6.7
Anniston, AL	26.9	1.8
Toledo, OH	124.9	5.6
Chattanooga, TN	163.6	8.0
Des Moines, IA	203.8	11.1
<b>Total</b>	<b>1,620.4</b>	<b>87</b>

Source: GAO analysis of GSA and federal judiciary data adjusted to current year (2013).

Note: Inflation to current year based upon averages of monthly indexes from U.S. Department of Labor, Bureau of Labor Statistics. \$87.0 million in annual payments over 20 years discounted at 0.8 percent are about \$1.6 billion in current (2013) dollars.

In addition, the 5-year plan does not provide the amount of funding already provided for all of the projects. Since fiscal year 1995, Congress has appropriated about \$177 million of the estimated \$1.6 billion needed for 10 of these projects' phases, mostly for site acquisitions and designs. None of the projects has begun construction, and only the Mobile project has received any construction funding (see fig. 4).

**Figure 4: Funding Status of Judiciary's 5-year Plan for Courthouse Projects, 2013**



We found that the 5-year plan does not align with the leading practice of considering the risks involved in acquiring new courthouses. Specifically, the plan does not inform stakeholders that 11 of the 12 projects require further design before construction can begin. According to GSA officials, the agency has not received funding for the design of two projects (Chattanooga and Des Moines). Of the remaining 10 projects that have design funding, 1 is in the design process and 9 are on hold. According to GSA officials, some of the projects on hold must be re-designed to accommodate policy and other requirements relating to, for example,

---

changes such as courtroom-sharing and energy management.<sup>22</sup> For example, the design of the Savannah courthouse project was completed in 1998 and now needs extensive re-design to accommodate changes mandated by policy shifts, including improved security and a reduction in the number of courtrooms needed. GSA officials said that only the design of the Nashville project—though oversized by one floor—is likely to remain largely intact because it would be more cost-effective to rent the additional space to other tenants than to completely re-design the project.

In February 2012, judiciary submitted its 5-year plan to Congress and other decision makers. As a result, there is a risk that funding decisions could be made without complete and accurate information. Congress would benefit from having information based upon a long-term capital investment plan for several reasons. Specifically, transparency about future priorities could allow decision makers to weigh current-year budget decisions within the context of projects' expected future costs. In the case of the judiciary, which has identified a number of future courthouse projects estimated to cost several billion dollars, full transparency regarding these future priorities may spur discussion and debate about actions Congress can take to address them. Additionally, transparency regarding future capital costs would put the judiciary's priorities in context with federal spending. There is widespread agreement that the federal government faces formidable near- and long-term fiscal challenges. GAO has long stated that more transparent information and better incentives for budget decisions, involving both existing and proposed programs,

---

<sup>22</sup>See, e.g., Exec. Order No. 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, 72 Fed. Reg. 3919 (Jan. 26, 2007) (Executive Order 13423 was codified into law by section 746 of the Omnibus Appropriations Act, 2009 (Pub. L. No. 111-8, 123 Stat. 524, 693)); Exec. Order No. 13514, *Federal Leadership In Environmental, Energy, and Economic Performance*, 74 Fed. Reg. 52117 (Oct. 8, 2009); and the Energy Independence and Security Act of 2007 (Pub. L. No. 110-140, 121 Stat. 1492).

---

could facilitate consideration of competing demands and help put U.S. finances on a more sustainable footing.<sup>23</sup>

---

## Most Courthouse Projects Were Not Evaluated under AMP Process and Do Not Meet AMP Criterion for New Construction

### Judiciary Has Not Evaluated Most 5-Year Plan Projects under the AMP Process

The judiciary has not applied the AMP process to 10 of the 12 construction projects on the current 5-year plan dated September 2012. These 10 projects were evaluated under the judiciary's prior capital-planning process and approved based on their urgency levels as determined under that process. Judiciary officials said that they did not want to delay the projects or force them to undergo a second capital-planning process review because the judiciary had already approved the projects. Only 2 projects on the current 5-year plan (2014 to 2018) were assessed under the AMP process—Chattanooga, Tennessee, and Des Moines, Iowa. Judiciary officials said these projects were added to the 5-year plan in September 2010 because they had the highest priority rankings of the projects that had undergone an AMP review at that time. Judiciary officials explained that these projects also had GSA feasibility studies that recommended new construction. However, the Chattanooga and Des Moines projects have not retained their top rankings as the judiciary has continued to apply the AMP process to additional courthouses. Specifically, judiciary documents show that more than a

---

<sup>23</sup>GAO, *U.S. Financial Condition and Fiscal Future Briefing*, [GAO-08-490CG](#), University of Akron: January 29, 2008; *21st Century Transformation Challenges and Opportunities*, [GAO-08-260CG](#) (New Orleans, LA: October 30, 2007); *Federal Oversight: The Need for Good Governance, Transparency, and Accountability*, [GAO-07-788CG](#) (National Conference President's Council on Integrity and Efficiency and Executive Council on Integrity and Efficiency: April 16, 2007); *Enhancing Performance, Accountability, and Foresight*, [GAO-06-1118CG](#) (Shanghai, China: September 13, 2006); *21st Century Challenges: Reexamining the Base of the Federal Government*, [GAO-05-325SP](#) (Washington, D.C.: February 2005).

---

dozen other projects not included on the 5-year plan now rank above the Chattanooga and Des Moines projects, six of which recommend new construction. For example, we visited the federal courthouse in Macon, Georgia, which now ranks higher than either the Chattanooga or Des Moines projects. The Macon courthouse suffers from numerous operational and security issues typical of historic courthouses, but it is not included on the 5-year plan. As we previously noted, the judiciary also applied the AMP process to 2 other projects that were included on an older 5-year plan (2012 to 2016)—San Jose and Greenbelt—and subsequently removed them after the projects received substantially lower priority rankings, as shown in appendix IV.

The change in the rankings of the 4 projects calls into question the extent to which the projects remaining on the 5-year plan represent the judiciary's most urgent projects and whether proceeding with these projects while hundreds of AMP reviews remain to be done represents the most fiscally responsible path. We recognize that conducting AMP reviews of the 10 projects on the 5-year plan would involve additional costs; however, not conducting AMP reviews on these projects could involve spending billions of dollars over the next 20 years on courthouses that may not be the most urgent projects. While the AMP process only partially aligns with leading practices in capital-planning, it is a significant improvement over the capital-planning process the judiciary used to choose 10 of the 12 projects on the 5-year plan. Assessing the 10 projects with the AMP process could help ensure that projects on the 5-year plan do, in fact, represent the judiciary's most urgent projects.

---

### Most Projects Do Not Qualify for a New Courthouse under the AMP Courtroom Criterion

Ten of the 12 projects on the 5-year plan do not qualify under the AMP criterion for a new courthouse. The judiciary's previous capital-planning process for new courthouse projects had no minimum additional courtroom requirement, but the AMP process stipulates that a new courthouse is justified when an existing courthouse has a deficit of two or more courtrooms based on the number of judges located there after applying courtroom-sharing policies. The judiciary bases its estimates for the number of courtrooms that it needs on the number of existing judges and the projected number of new judges it will have in 15 years.<sup>24</sup> We

---

<sup>24</sup>GAO 10-417. We previously found that the judiciary has overestimated the number of judges it would have after 10 years. However, the judiciary's estimate of the number of future judges for the current 5-year plan projects does not affect the number of courtrooms needed for those projects.

found that 5 of the projects on the list currently need additional courtrooms, and of those, only the Charlotte and Greenville projects would qualify under the AMP criterion because both need three additional courtrooms (see table 2). We did not assess if the shortage of courtrooms alone is the most appropriate criterion for requesting new construction from GSA, but the establishment of a clear criterion adds an element of transparency that was lacking in the judiciary's previous capital-planning process.

**Table 2: Courtroom Counts in Judiciary's 5-year Plan for Courthouses**

City <sup>a</sup>	Number of courtrooms by city		Additional number needed after judiciary courtroom-sharing policies applied
	In existing courthouses <sup>b</sup>	Needed after judiciary's courtroom-sharing policies applied	
Mobile, AL	11	9	(2)
Nashville, TN	12	11	(1)
San Antonio, TX	10	9	(1)
Anniston, AL	2	2	0
Chattanooga, TN	6	6	0
Norfolk, VA	9	9	0
Savannah, GA	4	4	0
Des Moines, IA	7	8	1
Harrisburg, PA	6	7	1
Toledo, OH	6	7	1
<b>Charlotte, NC</b>	<b>6</b>	<b>9</b>	<b>3</b>
<b>Greenville, SC<sup>c</sup></b>	<b>5</b>	<b>8</b>	<b>3</b>

Source: GAO Analysis of GSA and federal judiciary data.

<sup>a</sup>Some cities have more than one existing courthouse.

<sup>b</sup>Some existing courtrooms may not meet *Design Guide* standards for size. However, according to AMP guidance a disparity between space in an existing facility and the *Design Guide* standards is not justification for facility alteration and expansion.

<sup>c</sup>The new Greenville courthouse is to consolidate the judges from courthouses in Anderson and Spartanburg, South Carolina.

We visited two courthouses on the current 5-year plan that were selected as new construction projects under the prior capital-planning process—Savannah and Anniston built in 1899 and 1906, respectively. These historic courthouses qualified for new construction under the previous process because of space needs and security and operational



---

deficiencies because of their age, condition and building configuration. According to judiciary and GSA officials, neither courthouse meets *Design Guide* standards for (1) the secure circulation of prisoners, the public, and courthouse staff and (2) the adjacency of courtrooms and judge's chambers. However, neither of these courthouses would qualify for new construction under the AMP criterion as both have a sufficient number of existing courtrooms for all the judges.<sup>25</sup> Specifically, the Savannah and Anniston courthouses each have enough courtrooms for all assigned judges to have exclusive access to their own courtroom. Savannah currently houses one district judge, one senior district judge, one magistrate judge, and one bankruptcy judge. Figure 5 shows two courtrooms in the Anniston courthouse that currently house one senior district judge and one bankruptcy judge.

---

<sup>25</sup>According to GSA officials, regardless of whether a project is on the 5-year plan, GSA is responsible for ensuring that courthouses are adequately maintained.

**Figure 5: Photographs of the U.S. Federal Courthouse in Anniston, Alabama**



Front exterior



Courthouse plaque



U.S. District Court courtroom



U.S. Bankruptcy Court courtroom

Source: GAO.

## Potential Policy for District Judges to Share Courtrooms Could Further Reduce the Need for Future Courtrooms

As discussed, the judiciary's courtroom-sharing policies for senior district, magistrate, and bankruptcy judges allow it to reduce the scope of its courthouse projects and contributed to the cancelation of other courthouse projects. The judiciary has also been studying a courtroom-sharing policy for district judges but has not yet finalized a policy and could not provide a date when and if it planned to do so. Our 2010 report based on judiciary data on courtroom scheduling and use showed that judges of all kinds, including district judges, could share courtrooms without delaying any scheduled events and recommended that the judiciary expand courtroom-sharing to more fully reflect the actual scheduling and use of district courtrooms.<sup>26</sup> Specifically, judiciary data

<sup>26</sup> [GAO 10-417](#).

---

showed that three district judges could share two courtrooms or a district judge and a senior district judge could share one courtroom. If district judges shared courtrooms in this way, the judiciary would have a sufficient number of courtrooms in all of the 12 proposed projects in the 5-year plan, based on the AMP criterion.

In responding to our recommendation, the judiciary stated that our 2010 report oversimplified the complex task of courtroom-sharing by assuming that judicial proceedings were more certain and predictable than they are. We addressed the uncertainty of courtroom scheduling by (1) accounting for unused scheduled time as if the courtroom were actually used and (2) providing additional unscheduled time in courtrooms. Since potential courtroom-sharing among district judges could reduce the need for additional courtroom space and the AMP criterion for qualifying for new courthouse construction, it is important for the judiciary to finalize its position and policy on courtroom-sharing, as we previously recommended.

---

## Conclusion

With the development and implementation of the AMP process, the judiciary's capital-planning efforts partially align with several leading practices. The AMP process has the potential to provide a wealth of information on the judiciary's existing facilities and assess and rank the need for new construction based on measurable criteria. However, the 5-year plan submitted for approval of several billion-dollars worth of projects—a one-page list of projects with limited and incomplete information—does not support the judiciary's request for courthouse construction projects. For example, the AMP process introduces a criterion for when new construction is warranted—when two or more courtrooms are needed—but the 5-year plan does not show how this criterion applies to the recommended projects. Furthermore, the 5-year plan has underestimated total costs of these projects by about \$2 billion because it does not include all project phases and because the judiciary no longer includes its rent costs on the 5-year plan. Additionally, construction has not begun on any of the 12 courthouse projects on the 5-year plan and most need to be redesigned to meet current standards. Given the fiscal environment, the judiciary and the Congress would benefit from more detailed information about courthouse projects and their estimated costs than judiciary currently provides. Such information would enable judiciary and Congress to better evaluate the full range of real property priorities over the next few years and, should fiscal constraints so dictate, identify which should take precedence over the

---

others. In short, greater transparency would allow for more informed decision making among competing priorities.

Current fiscal challenges also require that the federal government focus on essential projects. While the judiciary has made significant strides in improving its capital-planning process, most of the 12 projects listed on the 5-year plan are products of its former process. It is possible that some of the 12 projects do not reflect the most urgent capital investment needs of the judiciary under its current criteria. Two projects on a previous 5-year plan that were assessed under the AMP process were removed from the list and now rank well down on the judiciary's list of priorities, but the judiciary has not applied the AMP process to 10 courthouses on the current 5-year plan dated September 2012. Furthermore, 10 of the 12 projects on the current 5-year plan do not require a sufficient number of courtrooms to qualify for new construction under the AMP courtroom criterion. In addition, there is no evidence that the judiciary considered how it could meet the need for courtrooms without new construction if district judges shared courtrooms. Although there would be some incremental costs involved with an additional 10 AMP reviews, those costs appear justified given the billions involved in moving forward with the construction of those 10 courthouses. Similar to the 2-year moratorium the judiciary placed on courthouse construction while it developed the AMP process, it is not too late to apply the AMP process to the 5-year plan projects and possibly save taxpayers from funding construction of projects that might not represent the judiciary's highest priorities under current criteria. It is critical that the judiciary accurately determine its most urgent projects because of the taxpayer cost and the years of work involved in designing and constructing new courthouses.

---

## Recommendations

To further improve the judiciary's capital-planning process, enhance transparency of that process, and allow for more informed decision making related to the federal judiciary's real property priorities, we recommend that the Director of the Administrative Office of the U.S. Courts, on behalf of the Judicial Conference of the United States, take the following two actions:

1. Better align the AMP process with leading practices for capital-planning. This should include linking the AMP process to the judiciary's strategic plan and developing and sharing with decision makers a long-term capital investment plan. In the meantime, future 5-year plans should provide comprehensive information on new courthouse projects, including:

- 
- a) a summary of why each project qualifies for new construction and is more urgent than other projects, including information about how the AMP process and other judiciary criteria for new courthouse construction were applied to the project;
  - b) complete cost estimates of each project; and
  - c) the alternatives to a new project that were considered, including courtroom-sharing, and why alternatives were deemed insufficient.
2. Impose a moratorium on projects on the current 5-year plan until AMP evaluations are completed for them and then request feasibility studies for courthouse projects with the highest urgency scores that qualify for new construction under the AMP process.

---

## Agency Comments and Our Evaluation

We provided copies of a draft of this report to GSA and AOUSC for review and comment. GSA and AOUSC provided technical comments that we incorporated as appropriate. Additionally, AOUSC provided written comments in which it agreed with our recommendation to link the AMP process to the judiciary's strategic plan. However, AOUSC raised a number of concerns that the subpoints related to our first recommendation on improving capital planning would duplicate other judiciary or GSA documents. Furthermore, AOUSC disagreed with our recommendation to place a moratorium on the projects in the 5-year plan until it could perform AMP evaluations of those projects because it would take years and not change the result. We continue to believe that our recommendation is sound because the projects included on the 5-year plan were evaluated under the judiciary's previous capital planning process and evidence suggested they no longer represent the judiciary's highest priorities. Specifically, two projects on a previous 5-year plan that were assessed under the AMP process were removed from the list and now rank well down the judiciary's list of priorities. In addition, 10 of the 12 projects on the current 5-year plan do not qualify for new construction under the AMP process. In response to AOUSC's comments, we made some technical clarifications where noted, none of which materially affected our findings, conclusions, or recommendations. AOUSC's complete comments are contained in appendix V, along with our response to specific issues raised.

In commenting on a draft of our report, AOUSC said it would take steps to address our first recommendation to link the AMP process to the judiciary's strategic plan, but cited concerns about our presentation of

---

information, accuracy of data, and the subpoints of the first recommendation. Specifically, AOUSC disputed our characterization of the judiciary's role in the capital-planning process for new courthouses and the information provided to Congress to justify new courthouses. According to AOUSC, Congress receives extensive, detailed information on new courthouse projects from GSA, and our recommendation for the judiciary to provide more comprehensive information on courthouse projects in 5-year plans would duplicate the GSA's work. AOUSC also disputed our presentation of the AMP process, stating that GAO did not consider all documents when making our conclusions. AOUSC disagreed with our recommendation for a moratorium on all projects currently on the 5-year plan because completing AMP evaluations for those projects would unnecessarily delay the projects and exacerbate existing security and structural issues with the existing courthouses. In AOUSC's view, AMP evaluations for these courthouses would take years and not alter the justification for new construction projects. AOUSC further disputed the data we used to support our conclusions about the projects on the 5-year plan and our explanation of the data's source. AOUSC also questioned our characterization of the judiciary's actions in response to recommendations in a prior GAO report.

We believe our findings, analysis, conclusions, and recommendations are well supported. GAO adheres to generally accepted government auditing standards, which ensure the accuracy and relevance of the facts within this report. These standards include a layered approach to fact validation that includes supervisory review of all work papers, independent verification of the facts within the report, and the judiciary's review of the facts prior to our release of the draft report for agency comment. To the extent that the judiciary is questioning any facts, the judiciary had multiple opportunities provide supporting documentation to substantiate its view. We believe that our description of the roles and responsibilities of the judiciary and the GSA in the capital-planning process for new courthouses is correct and appropriate. In reaching our conclusions about the information provided to Congress, we relied on documents we received from the judiciary and GSA. We continue to believe that by implementing our recommendation about providing additional information to Congress, the judiciary would improve the completeness and transparency of the information that Congress needs to justify and authorize funding of new courthouse projects. We will review AOUSC's steps, once finalized, to address our recommendation that the AMP process be linked to the judiciary's strategic plan. We continue to believe that any steps that AOUSC takes should be aligned with leading practices, including presentation of total project cost estimates and

---

alternatives considered, such as greater courtroom sharing in existing courthouses.

With regard to our recommended moratorium on projects on the current 5-year plan, we note that the AMP process represents progress by the judiciary in better aligning its capital-planning process with leading practices. Consequently, we believe that it would be worthwhile to use this improved process to ensure that all courthouse construction proposals remain the judiciary's top priorities and qualify for new construction under the AMP process. The San Jose and Greenbelt projects were approved as among the highest priorities for new construction under the old process but, after being evaluated under the AMP process, now rank far lower on the judiciary's list of priorities—117<sup>th</sup> and 139<sup>th</sup>, respectively. We also noted that regardless of whether a project is on the 5-year plan, GSA is responsible for ensuring that courthouses are adequately maintained. We relied on data provided by the judiciary and the GSA to support our analysis of whether the projects on the 5-year plan would qualify under the AMP process, and stand by our conclusions. We used the most current and complete data provided by the judiciary to evaluate the cost of these projects. We will review information provided by the judiciary and determine whether to close the recommendation from our 2010 report at the appropriate time. In response to AOUSC's comments, we clarified the report and added detail to our methodology in appendix I as appropriate.

---

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, Director of the Administrative Office of the U.S. Courts, the Administrator of GSA and other interested parties. In addition, the report will be available at no charge on GAO's website at <http://www.gao.gov>.

---

If you or your staffs have any questions on this report, please contact me at (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Contact information and key contributors to the report are listed in appendix VI.

A handwritten signature in black ink, appearing to read 'M. Goldstein', with a long horizontal flourish extending to the right.

Mark L. Goldstein  
Director, Physical Infrastructure Issues



---

# Appendix I: Objectives, Scope and Methodology

---

This report addresses the following objectives:

- To what extent does the judiciary's capital-planning process align with leading practices and provide the information needed for informed decision making?
- To what extent were the courthouse projects recommended for funding in fiscal years 2014 to 2018 assessed under the judiciary's current capital-planning process?

To evaluate the judiciary's capital-planning process, we collected information on leading capital-planning practices from the Office of Management and Budget's (OMB) *Capital Programming Guide*<sup>1</sup> and GAO's *Executive Guide*<sup>2</sup> and compared this information with the AMP process contained in the judiciary's Long Range Facility Plans, Facility Benefit Assessments, Citywide Benefit Assessments, Urgency Evaluations, 5-year plans and Strategic Plan. We did not review the appropriateness of criteria used by judiciary in its AMP process. We reviewed documentation on the status of courthouse construction projects and information about other federal buildings occupied by the judiciary. We reviewed GSA data on actual costs of construction and tenant improvements at two courthouse projects (Las Cruces, NM and Ft. Pierce, FL) one completed in 2010 and one completed in 2011; and GSA and judiciary estimated costs of construction for the courthouse projects on the most recent 5-year plan, covering fiscal years 2014 to 2018. To determine if life-cycle cost estimates were provided in the 5-year plan, we assessed the judiciary data against GAO's *Cost Estimating and Assessment Guide*.<sup>3</sup> To determine the current dollar value of the judiciary's estimate of courthouse projects' rents, we calculated the present value of the estimated project cost based upon averages of monthly indexes from U.S. Department of Labor, Bureau of Labor Statistics, and rent based upon 20 year OMB published discount rate for analyses.<sup>4</sup> In addition, we interviewed judiciary officials on the AMP

---

<sup>1</sup>Office of Management and Budget, Supplement to Circular No. A-11: [Capital Programming Guide](#) (Washington, D.C.: July 2012).

<sup>2</sup>GAO, *Executive Guide: Leading Practices in Capital Decision-Making*, [GAO/AIMD-99-32](#) (Washington, D.C.: December 1998).

<sup>3</sup>GAO, *Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, [GAO-09-3SP](#) (Washington, D.C.: March 2009).

process and its alignment with leading capital-planning practices. To analyze judiciary's capital-planning process, we reviewed our previous reports on capital-planning across the federal government,<sup>5</sup> including the efforts by the judiciary<sup>6</sup> and the Department of Veterans Affairs<sup>7</sup> to communicate its urgent housing needs to Congress.

To assess recent courthouse projects recommended for funding under the judiciary's current capital-planning process, we reviewed the judiciary's documents detailing the projects recommended for funding for fiscal years 2009 through 2018, called 5-year plans, and other documents on: congressional authorizations and funding appropriations for courthouse projects; judiciary information on courts and courthouses; and GSA information on federal buildings, existing and planned federal courthouses, courthouse design, and federal historic property. We interviewed judiciary and GSA officials in Washington, D.C., and federal courthouses we selected in Anniston, AL; Macon, GA; and Savannah, GA. To observe existing courthouses, we selected Anniston and Savannah because they were evaluated under judiciary's old capital-planning process and are on the most recent 5-year plan, covering fiscal years 2014 to 2018. We selected Macon because it was highly ranked under the judiciary's new capital-planning process and is in close proximity to Anniston and Savannah. While our observations cannot be generalized to all federal courthouses, they provide keen insights into physical conditions at old historic courthouses. We reviewed documentation provided by the judiciary on strategic planning, capital-planning, existing courthouse evaluations, the rating and ranking of existing courthouse deficiencies, existing and future judgeships, and courtroom-sharing by judges. To determine the extent that courthouse projects on the 5-year plan reflect future judges needed and courtroom-sharing, we compared the judiciary's planned occupancy information to

---

<sup>4</sup>Office of Management and Budget, [2013 Discount Rates for OMB Circular No. A-94](#), Memorandum M-13-04 (Washington, D. C.: Jan. 24, 2013).

<sup>5</sup>GAO, *Budget Issues: Agency Implementation of Capital Planning Principles Is Mixed*, [GAO-04-138](#) (Washington, D.C.: Jan. 16, 2004) and GAO, *Federal Capital: Three Entities' Implementation of Capital Planning Principles Is Mixed*, [GAO-07-274](#) (Washington, D.C.: Feb. 23, 2007).

<sup>6</sup>GAO, *Courthouse Construction: Improved 5-Year Plan Could Promote More Informed Decisionmaking*, [GAO/GGD-97-27](#) (Washington, D.C.: Dec. 31, 1996).

<sup>7</sup>GAO, *VA Real Property: Realignment Progressing, but Greater Transparency about Future Priorities Is Needed*, [GAO-11-197](#) (Washington, D.C.: Jan. 31, 2011).

the judiciary's own guidance, our previous work on judiciary's courtroom-sharing,<sup>8</sup> and a recently proposed bill from the 112<sup>th</sup> Congress that would have required GSA to design courthouses with more courtroom-sharing.<sup>9</sup> We determined the number of courtrooms in the existing courthouses and compared them to the number of courtrooms needed in the new courthouses using the judiciary's courtroom-sharing policy. We also applied judiciary's courtroom-sharing policy for new courthouses to existing courthouses. We reviewed documentation provided by GSA on the status of courthouse construction; the status of courthouse projects on the two most recent 5-year plans; and federal buildings and courthouses occupied by the judiciary. We reviewed the judiciary's and GSA's data for completeness and determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit from March 2012 to April 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

<sup>8</sup>GAO, *Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, [GAO 10-417](#) (Washington, D.C.: June 21, 2010).

<sup>9</sup>See, Public Buildings Reform Act of 2012, [H.R. 6430](#), § 202, 112<sup>th</sup> Cong. (2012).

# Appendix II: Judiciary's Courtroom-Sharing Policy for New Construction

Senior District Judges <sup>a</sup>		Magistrate Judges <sup>b</sup>		Bankruptcy Judges <sup>c</sup>	
Senior District Judges	Courtrooms allocated	Magistrate Judges	Courtrooms allocated	Bankruptcy Judges	Courtrooms allocated
1	1	1	1	1	1
2	1	2	2	2	2
3	2	3	2	3	2
4	2	4	3	4	3
5	3	5	3	5	3
6	3	6	4	6	4
7	4	7	4	7	4
8	4	8	5	8	5
9	5	9	5	9	5
10	5	10	6	10	6

Source: federal judiciary.

Note: Each active District Judge is allocated one dedicated courtroom (not shown in chart).

<sup>a</sup>According to judiciary documents, Senior District Judge courtrooms must comply with the conference report to the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115) guidance on the allocation of courtrooms for senior judges, which states "With any funds in the Act that are used for new United States courthouse construction, the conferees advise GSA to consider projects for which the design provides courtroom space for senior judges for up to 10 years from eligibility for senior status, not to exceed one courtroom for every two senior judges."

<sup>b</sup>In courthouses with one or two Magistrate Judges, one courtroom will be provided for each judge. In courthouses with three or more Magistrate Judges, one courtroom will be provided for every two magistrate judges, rounding down when there is an odd number of judges. In addition, one courtroom will be provided for magistrate judge criminal duty proceedings.

<sup>c</sup>In court facilities with one or two Bankruptcy Judges, one courtroom will be provided for each Bankruptcy Judge. In court facilities with three or more bankruptcy judges, one courtroom will be provided for every two bankruptcy judges, rounding down when there is an odd number of judges. In addition, one courtroom will be provided for emergency matters, such as Chapter 11 first-day hearings.

# Appendix III: Judiciary's Asset-Management Planning Process Urgency-Evaluation Matrix for New Construction Projects

Criteria (weight)	Categories (weight)	Description
Courtrooms needed by judge type (20%)	Current additional courtrooms needed (15%)	Courtrooms needed today. Data separated by judge type and weights assigned (district judges 100%, senior district judges 75%, magistrate judges 50% or bankruptcy judges 50%). Courtroom-sharing per Judicial Conference policy.
	Future additional courtrooms needed (5%)	Courtrooms needed within 15 years. Data separated by judge type and weights assigned (district judges 100%, senior district judges 75%, magistrate judges 50% or bankruptcy judges 50%). Courtroom-sharing per Judicial Conference policy.
Chambers needed by judge type (30%)	Current additional chambers needed (22.5%)	Chambers needed today. Data separated by judge type and weights assigned (district judges 100%, senior district judges 75%, magistrate judges 50% or bankruptcy judges 50%). Courtroom-sharing per Judicial Conference policy.
	Future additional chambers needed (7.5%)	Chambers needed within 15 years. Data separated by judge type and weights assigned (district judges 100%, senior district judges 75%, magistrate judges 50% or bankruptcy judges 50%). Courtroom-sharing per Judicial Conference policy.
Facility benefit assessment (40%)	Citywide benefit assessment result (40%)	In cities where courtrooms and chambers are located in multiple facilities, a citywide benefit assessment is produced. This incorporates the individual Facility Benefit Assessment for each facility; the type, a mix of facility ownership; and fragmentation of the court operations on a citywide basis. In cities with a single courthouse, the Facility Benefit Assessment is the same as the citywide assessment and covers 328 items in four main categories: building conditions (30%); space functionality (30%); security (25%); and space standards (15%).
Caseload growth (10%)	Civil filings historic (3%)	Average annual change in the number of civil filings (1997-2011).
	Civil filings projected (1%)	Projected average annual change in the number of civil filings (2012-2026).
	Criminal defendants historic (4.5%)	Average annual change in the number of number of criminal defendants (1997-2011).
	Criminal defendants projected (1.5%)	Projected average annual change in the number of criminal defendants (2012-2026).

Source: federal judiciary.

# Appendix IV: Judiciary's New Courthouse Projects for Fiscal Years 2012 to 2016 and Fiscal Years 2014 to 2018

City	New asset-management planning process			Old capital-planning process		
	Urgency evaluation <sup>a</sup>	Citywide assessment <sup>b</sup>	Facility benefit assessment <sup>b</sup>	Old score <sup>c</sup>	Fiscal year 2012 – 2016 5-year plan <sup>d</sup>	Fiscal year 2014 – 2018 5-year plan <sup>d</sup>
Los Angeles, CA				85	✓	X
Mobile, AL				59.8	✓	✓
Nashville, TN				67.3	✓	✓
Savannah, GA				61.3	✓	✓
San Jose, CA	13.2	84.7	84.7	54.5	✓	X
San Antonio, TX				61.3	✓	✓
Charlotte, NC				58.5	✓	✓
Greenville, SC				58.1	✓	✓
Harrisburg, PA				56.8	✓	✓
Norfolk, VA				57.4	✓	✓
Anniston, AL		43.1	44.8 <sup>e</sup>	57.1	✓	✓
Toledo, OH				54.4	✓	✓
Greenbelt, MD	7.6	90.4	90.4	53.8	✓	X
Chattanooga, TN	37.3	62.5	See note <sup>e</sup>		✓	✓
Des Moines, IA	35.3	53.4	See note <sup>e</sup>		✓	✓

Source: federal judiciary

<sup>a</sup>The higher the urgency evaluation rating, the worse the existing facility (or facilities within a city).

<sup>b</sup>The higher the resulting facility benefit assessment (FBA) (or citywide assessment) rating, the better the existing facility (or facilities within a city). A rating of 100 represents an ideal courthouse, 80-100 is a good courthouse, and below 60 is a poor courthouse. In cities where courtrooms and chambers are located in multiple facilities, a citywide benefit assessment is produced. This incorporates the individual FBA for the individual facility; the type, a mix of facility ownership; and fragmentation of the court operations on a citywide basis. In cities with a single courthouse, the FBA is the same for the citywide assessment. The FBA covers four main categories of building conditions (30%); space functionality (30%); security (25%); and space standards (15%).

<sup>c</sup>The higher the "score," the greater the space need urgency.

<sup>d</sup>Included =✓; not Included =X.

<sup>e</sup>More than one building assessed.

# Appendix V: Comments from the Federal Judiciary

Note: GAO comments supplementing those in the report text appear at the end of this appendix. Page numbers in draft report may differ from those in this report.



## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

HONORABLE THOMAS F. HOGAN  
Director

WASHINGTON, D.C. 20544

March 29, 2013

Mr. Mark L. Goldstein  
Director, Physical Infrastructure Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Mr. Goldstein:

The Federal Judiciary acknowledges receipt of the Government Accountability Office's (GAO) draft report entitled, *FEDERAL COURTHOUSES: Proposed Construction Projects Should Be Evaluated Under New Capital Planning Process* (GAO-13-263). In the draft report, the GAO recommends that the Judiciary take two actions:

1. Better align the Asset Management Planning (AMP) Process with leading practices for capital planning. This should include linking the AMP Process to the Judiciary's strategic plan and developing and sharing with decision makers a long-term capital investment plan. In the meantime, future *Five-Year Plans* should provide comprehensive information on new courthouse projects, including:
  - a. a summary of why each project qualifies for new construction and is more urgent than other projects, including information about how the AMP Process and other Judiciary criteria for new courthouse construction were applied to the project;
  - b. complete cost estimates of each project; and,
  - c. the alternatives to a new project that were considered, including courtroom sharing, and why alternatives were deemed insufficient; and,

---

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Mr. Mark L. Goldstein  
Page 2

2. Impose a moratorium on projects on the current *Five-Year Courthouse Construction Plan* until AMP evaluations are completed for them, and then request feasibility studies for courthouse projects with the highest urgency scores that qualify for new construction under the AMP process.

**THE ROLES OF THE JUDICIARY AND THE GSA**

It is troubling that throughout the course of this engagement, the GAO has failed to understand the purpose of the Judiciary's *Five-Year Courthouse Construction Plan (Five-Year Plan)*, confusing it with what is known among facilities planning professionals as a long-term capital investment plan. In multiple instances, the GAO report erroneously states that the Judiciary uses the *Five-Year Plan* as a means to "document" and "transmit" courthouse construction project requests to the Congress, implying that we are utilizing the *Five-Year Plan* as a long-term capital investment plan, and that as a result, the process lacks transparency and omits key information. The GAO report appears to offer the astonishing suggestion that the only information Congress receives prior to making a courthouse funding decision is the one-page *Five-Year Plan*. Obviously, Congress would never make such an important decision in such a cavalier fashion. Indeed, the \$188.29 million already provided by Congress for projects on the current *Five-Year Plan* was thoroughly justified by extensive, detailed submissions to the pertinent Congressional committees and subcommittees by the appropriate Executive Branch agency, the General Services Administration (GSA).

As the GAO knows, the Judiciary does not have independent real property authority. It is the role and responsibility of the GSA to request and seek authorization and funding from Congress. In so doing, the GSA develops a comprehensive package for use by the Office of Management and Budget (OMB) and the Senate Appropriations Committee, Subcommittee on Financial Services and General Government; the Senate Committee on Environment and Public Works, Subcommittee on Transportation and Infrastructure; the House Appropriations Committee, Subcommittee on Financial Services and General Government; and the House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings, and Emergency Management, to help ensure they make informed decisions. Project-related analysis and materials that the GSA provides to decision-makers on behalf of and in coordination with the Judiciary include: 1) a detailed project feasibility study that assesses existing facility conditions and present and future space needs, identifies the range of alternatives to meet those needs, evaluates the costs of each alternative, and recommends a housing solution; 2) a Program Development Study (PDS) which updates and refines the feasibility study, and includes a more detailed development of alternatives and costs; 3) a Prospectus for site acquisition, design, and construction that contains the full project budget, authorization requested, prior authority and funding, project schedule, project scope, and

See comment 1.

See comment 2.



Mr. Mark L. Goldstein  
Page 3

project justification; and, 4) a Congressional Justification document for a given year's appropriation request, which includes full disclosure of prior-year appropriations and additional funding required.

In sum, the GAO's recommendation appears to be that the Judiciary expend scant resources duplicating analyses already provided to the OMB and Congress by the GSA. If the report intends something more – if it is suggesting that there is specific information related to new courthouse construction not being provided to Congress by the GSA – then the report has failed to identify what that information is. The Judiciary, of course, stands ready to provide any information Congress desires, but it should not be required to replicate data already assembled and submitted by the GSA, or suffer criticism for declining to do so.

**THE AMP PROCESS ALIGNS WITH THE JUDICIARY'S STRATEGIC PLAN**

The draft report also recommends that the AMP Process be linked to the Judiciary's strategic plan. The GAO team included this issue in its "Statement of Facts," to which we responded in writing with supporting documentation on February 4, 2013, and again by email on February 7, 2013; however, the information provided in our response has not been included in the draft report. To reiterate, the *Strategic Plan for the Federal Judiciary* is organized around seven strategic issues, two of which are directly supported by and linked to long-range facilities planning and the Judiciary's capital planning process:

- **Issue 1: Providing Justice**  
Strategy 1.3: Secure resources that are sufficient to enable the Judiciary to accomplish its mission in a manner consistent with Judiciary core values.
- **Issue 2: The Effective and Efficient Management of Public Resources**  
Strategy 2.1: Allocate and manage resources more efficiently and effectively.

The themes of cost containment and efficient utilization of existing facilities are woven throughout the long-range facilities plans. The GAO was provided with excerpts from the Long-Range Facilities Plan (LRFP) for the Middle District of Florida that clearly illustrate how the AMP Process supports and links to the Judiciary's strategic plan. During the course of the engagement, it became apparent through conversations with the GAO team that these references were not explicit enough to meet its linkage "test." In response, we have made changes to the LRFP template so that all plans currently under development, and all plans to be completed in the future, will contain a discussion that clearly links the AMP Process to the Judiciary's strategic plan.

See comment 3.

See comment 4.

Mr. Mark L. Goldstein  
Page 4

**A FURTHER MORATORIUM ON CONGRESSIONALLY APPROVED COURTHOUSE  
PROJECTS WOULD BE UNFAIR TO THE COMMUNITIES AFFECTED, WOULD WASTE  
TAXPAYER FUNDS, AND WOULD INCREASE RISK TO COURT STAFF AND THE PUBLIC**

Of greatest concern in the draft report is the GAO's second recommendation stating that the Judiciary should impose a moratorium on projects on the current *Five-Year Plan* until AMP evaluations are completed for each of them, and then request feasibility studies for courthouse projects with the highest urgency scores that qualify for new construction under the AMP Process.

In effect, this recommendation would mean that courts on the current plan that were analyzed under the planning process that preceded the AMP Process, and which Congress has supported by providing \$188.29 million in funding for site acquisition, design, and/or construction, would need to wait approximately two years to determine if the project would again qualify for placement on the plan. Furthermore, based on current timelines, it would be approximately four more years beyond that to complete a GSA feasibility study (if funding for the study were available) for any new projects resulting from the updated Urgency Evaluation, and to secure the approval of the Judicial Conference of the United States for placement on the revamped *Five-Year Plan*. The end result could in effect be a six-year moratorium on all courthouse and annex/addition construction projects on the current plan that qualify to remain on the revamped plan, and even longer than that for any new projects because of the time it takes to secure funding for design, site acquisition, and construction. Ten of the 12 projects have been on the *Five-Year Plan* since 1999 or earlier.

The *Five-Year Plan* document that the Judiciary sends to the GSA for consideration in its Capital Plan has essentially remained unchanged. Congress and the GSA have lauded the Judiciary's efforts to prioritize its courthouse priorities with its *Five-Year Plan*. Over the course of time, Congress has appropriated \$188.29 million for 10 of the 12 projects on the plan. Creating more data, completing more research, taking more time and spending more money for studies, will not alter the Judiciary's need for these projects. Alternatives have been considered, scopes have been adjusted for all projects in response to courtroom sharing policies and in eight cases sites have been acquired. What has not changed is the declining condition of the courthouses, the aging building systems, the massive roof leaks, the large cost to house court components in leased space, the backlog of maintenance and repair projects, and the lack of secured circulation for prisoners, which puts the judges, their staff, and perhaps most egregious of all – the public and jurors – in harm's way.

See comment 5.

See comment 6.

Mr. Mark L. Goldstein  
Page 5

See comment 7.

We know from tragic experience that the security concerns are real, not hypothetical; the GAO team itself saw first-hand the sub-standard courthouse conditions in districts awaiting new facilities. Budget constraints have already resulted in unfortunate, but understandable delays and we acknowledge this may continue. But it is unfair, and dangerous, to expect these communities to endure further delays caused by needless additional analysis and data collection.

See comment 8.

In response to the GAO's report, Chief Judge Lisa Godbey Wood of the Southern District of Georgia has written a letter (see Enclosure 1) voicing her court's concerns about the conclusions of the GAO's report and the impact that it might have on the Savannah courthouse, which was evaluated under the previous long-range facilities planning process and is listed on the *Five-Year Courthouse Construction Plan*. The courthouse has serious structural, security, and space issues as described in Judge Wood's letter. Moreover, she has provided pictures which substantiate the disrepair and unsafe condition of the courthouse.

**THE GAO'S RECOMMENDATIONS ARE BASED ON A LACK OF  
UNDERSTANDING AND INCORRECT/INCOMPLETE INFORMATION**

See comment 9.

The rationale the GAO used to justify their recommendations also includes incorrect data and/or incomplete information. The report incorrectly states that 10 out of 12 recommended courthouse construction projects do not qualify for a new courthouse under the AMP criterion which requires that courthouses need two or more additional courtrooms to qualify for a new courthouse. This conclusion was drawn from the draft report's *Table 2. Courtroom Counts, Judiciary's 5-Year Plan Courthouse*. The table is incorrect. Corrections are needed on 9 of the 12 projects listed (see Enclosure 2). The report further states that these conditions call into question the extent to which the projects remaining on the *Five-Year Plan* represent the Judiciary's most urgent projects and whether proceeding with these projects represents the most fiscally responsible path. There are two parts of this justification that need to be corrected, again as we did when the Judiciary provided comments on the "Statement of Facts."

See comment 10.

The AMP Business Rule requiring a space need of two or more courtrooms in order to be recommended for a new courthouse pertains to the strategy recommendations contained in a given district's long-range facilities plan. The next step in the process before a new project is added to the *Five-Year Courthouse Project Plan* is completion of a GSA Feasibility Study. If the approved GSA Feasibility Study recommends new construction as the most viable and cost effective space needs solution, that recommendation prevails and a recommendation may be made to add the project to the *Five-Year Plan*.

Mr. Mark L. Goldstein  
Page 6

See comment 11.

That is the case with the current *Five-Year Plan* projects that have a shortfall of one courtroom as opposed to two – the GSA project feasibility study concludes that replacement of the existing courthouse or construction of an annex/addition is the most cost-effective way to address space needs, operational needs, building condition needs, and security issues. Again, this point has been made previously, most recently in writing in our February 4, 2013, response to the “Statement of Facts.”

See comment 12.

The report also makes erroneous assertions and contains outdated information. One example is on page 11, where the report indicates that the Judiciary removed two projects from the *Five-Year Plan* because their rankings dropped. This is simply not accurate. The two referenced projects – San Jose, California, and Greenbelt, Maryland – were removed from the *Five-Year Plan* because the space needs of the two courts had changed, and in the case of Greenbelt, additional relief was realized when space in the existing courthouse became available after another tenant moved out of the building. As a result, the needs of both courts could be alternatively addressed by reconfiguring existing space rather than new construction.

On page 2 of the report, the GAO states that to determine the extent to which the Judiciary’s capital planning process aligns with leading practices and provides the information needed for informed decision-making, documentation was analyzed and compared with leading capital planning practices from the OMB *Capital Programming Guide* and the GAO’s *Executive Guide*. It is further stated that the GAO team studied the Judiciary-estimated construction costs for proposed courthouse projects.

As previously pointed out in this letter, our February 4, 2013, response to the “Statement of Facts,” and during the interview process, the Judiciary does not develop construction cost estimates. All estimates pertaining to *Five-Year Plan* projects are developed and provided to the Judiciary by the GSA. To eliminate any questions about the source of the estimates, future *Five-Year Plans* will indicate that all cost estimates are provided by the GSA.

See comment 13.

Furthermore, there was a primary product of the AMP Process that the GAO team chose not to review and/or consider despite this oversight being brought to the team’s attention at the January 29, 2013, exit briefing – the AMP Process’s long-range facilities plan – and the prior process’s long-range plan. We believe that had these documents been reviewed, the GAO would have found the documentation and analysis the page 2 statement says is missing from the process.

Mr. Mark L. Goldstein  
Page 7

The Judiciary also takes exception to the GAO team's conclusions in *Figure 2. Leading Capital Planning Practices, as Outlined in OMB Guidance, and Extent to Which AMP Process Aligns with Them*. Specifically:

1. **Needs Assessment and Gap Identification:** To rate this as "Partial Alignment – missing less than a majority of linkage to the GAO and the OMB capital planning leading practice" – is a gross error and perhaps due to the fact that the GAO team did not include the review of an AMP long-range facilities plan as part of its assessment. As already mentioned, long-range facilities plans are the foundation of the AMP Process and are where each district's space needs are assessed and gaps identified. In addition, the report's only negative remark/explanation for a partial alignment rating was that the cost estimates supporting the Judiciary's needs are incomplete. Again, and it cannot be over-emphasized, the Judiciary does not generate cost estimates; this is the GSA's role, and in that role complete cost estimates are provided to the OMB and the Congressional appropriations and authorizing committees in the GSA Program Development Study and the GSA Prospectus document.
2. **Alternatives Evaluation.** Again, had the GAO team considered the cornerstone of the AMP Process – a long-range facilities plan – it would not be "unclear if the Judiciary considered other options, such as courtroom sharing in the existing courthouse." In fact, if one had been read in combination with the AMP Business Rules, it would have been clear that these two documents function collectively to evaluate a full-range of options for addressing space needs including courtroom sharing, and building renovation and alteration. Furthermore, the GAO team would have seen that the options are evaluated successively with the emphasis being placed on the least costly option. In addition, the GSA feasibility studies all provide another, more detailed layer of alternatives evaluation, including cost.
3. **Review and Approval Framework with Established Criteria for Selecting Capital Investments.** The report states that the AMP Process includes a review and approval framework with criteria (which it does), thus warranting a rating of "Fully Aligned," but then the narrative goes on to say that "courtroom deficits are not apparent in most projects reported in the 5-year plan." Is the GAO assessing the AMP Process as the title of *Figure 2* states? It is evident that the GAO is confusing the AMP Process with the *Five-Year Plan* in its assessment and therefore this factor warrants a higher rating.

See comment 14.

See comment 15.

See comment 16.

Mr. Mark L. Goldstein  
Page 8

See comment 17.

The estimated project costs and estimated annual rent costs in *Table 1* on page 15 of the draft report are not only all incorrect, they have been further inflated from what was contained in the “Statement of Facts” without explanation. Corrected amounts were previously provided by the Judiciary to the GAO in our February 2013 response to the “Statement of Facts” document. The amounts we provided for project costs are consistent with the current *Five-Year Plan* and what was provided to us by the GSA at the time the plan was originally published; however, when a project is delayed, these costs change due to inflation and potentially, further project refinement. On March 14, 2013, the Judiciary received updated cost estimates in preparation for development of the draft *Five-Year Courthouse Construction Plan for FY’s 2015-2019*. To ensure consistency, it is suggested that the GAO date its figures and tables in the report and use only the project cost estimates provided by the GSA. The title of the table should also be corrected to state that the project cost estimates are developed by the GSA and the rent estimates are developed by the Judiciary.

See comment 18.

**THE JUDICIARY HAS IMPLEMENTED CHANGES TO  
ADDRESS RECOMMENDATIONS FROM THE 2010 GAO REPORT**

See comment 19.

In the letter to Congressman Bill Schuster, Congressman Lou Barletta, Congresswoman Eleanor Holmes Norton, and Congressman Jeff Denham (see page 2 of the draft report) there is a statement that the GAO’s recommendations from the 2010 report have not yet been implemented by the Judiciary. Those recommendations were that the Judiciary should: 1) retain caseload projections to improve the accuracy of its 10-year judge planning, and 2) establish and use courtroom sharing policies based on scheduling and use data.

In fact, the Judiciary has been exceptionally responsive to past GAO recommendations when their efficacy is clear and when the recommendations are not contradictory to the mission of the Judicial Branch and the proper carriage of justice. Courtroom sharing policies are in effect nationwide for senior district judges, magistrate judges, and most recently, bankruptcy judges. These policies have been in place for several years: senior district judges since 2008, magistrate judges since 2008, and bankruptcy judges since 2011. In addition, the Judiciary has removed projected judgeship space needs (courtrooms and chambers) from the project requirements that the GSA refers to when programming and designing a new courthouse. The GAO report correctly refers to current courtroom sharing policies and their implementation on page 4 of the draft report; yet a statement to the contrary was made in the letter transmitting this report to the chair of the Committee on Transportation and Infrastructure, the chair and ranking member of the Subcommittee, and Representative Denham.

Mr. Mark L. Goldstein  
Page 9

The report also incorrectly states that the Judiciary has not implemented a prior GAO recommendation to retain caseload projections to improve the accuracy of its 10-year judge planning.

The Judiciary completes caseload and forecasting on an annual basis. All forecasts completed since 2004 are available in an Administrative Office forecasting database. In response to the GAO's concerns in 2010, we modified the forecasting process to include additional analyses of caseload forecasts. These analyses included:

1. Calculating the absolute percent error (APE), percent error (PE), and one-year mean absolute percent error (MAPE) for each forecast versus the actual value for all caseload forecasts completed since 2004;
2. Analyzing the MAPEs to determine trends, such as identifying districts and/or caseload series that are the most difficult to forecast (i.e., the ones with large MAPEs) and identifying trends by location, region, or court size; and,
3. Completing scenario testing to include population trends as a factor influencing forecasts for bankruptcy and weighted bankruptcy filings.

Also modified in response to the GAO recommendations was the inclusion of additional analyses of the district judge, senior district judge, magistrate judge positions, and bankruptcy judgeship projections. These analyses include calculating the absolute percent error (APE) and percent error (PE) for each forecast versus the actual value for all caseload forecasts completed since 2004.

As a result of these analyses, the forecasts are increasing in accuracy. We intend to continue calculating and analyzing the absolute percent error (APE), percent error (PE), and one-year mean absolute percent error (MAPE) as part of the annual forecasting task to monitor and further improve forecast accuracy.

To this end, the Judiciary asserts that the report should be amended and the record corrected to reflect that the Judiciary has complied with the GAO's recommendations as set forth above.

#### CONCLUSION

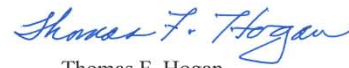
The Judiciary takes its stewardship responsibilities seriously. We take pride in the fact that, since 2008, the Asset Management Planning Process has ensured that courthouse needs are identified, analyzed, and prioritized objectively. However, we are also confident

See comment 20.

Mr. Mark L. Goldstein  
Page 10

that the 12 projects on the current *Five-Year Plan*, for which \$188.29 million has already been appropriated by Congress, are fully justified and badly needed. Although the planning for these projects preceded the development of the AMP Process, they were all evaluated through a prior, stringent process, then further analyzed by the GSA, and ultimately approved by the Judicial Conference of the United States as the Judiciary's highest and most pressing priorities. The people of these communities need and deserve these new facilities. We ask that the GAO carefully consider the Judiciary's comments, as well as comments we understand will be coming from the GSA, and modify the report to recognize the importance of avoiding any further unnecessary delays in proceeding with the *Five-Year Plan* projects.

Sincerely,

  
Thomas F. Hogan  
Director

Enclosures



Note: Enclosure 1 to the  
AOUSC's letter.

Enclosure 1



LISA GODBEY WOOD  
CHIEF JUDGE

United States District Court  
SOUTHERN DISTRICT OF GEORGIA

FRANK M. SCARLETT FEDERAL BUILDING  
801 GLOUCESTER STREET, ROOM 207  
BRUNSWICK, GEORGIA 31520

March 15, 2013

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Mr. Mark Goldstein  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Greetings:

I have been asked to review the draft report titled **Federal Courthouses: Proposed Construction Projects Should Be Evaluated Under New Capital Planning Process**. I have shared this draft report with Judges Moore and Edenfield in the Savannah Courthouse. Their observations are included in this response.

First let me thank the GAO for reviewing these projects. The report highlights the serious need to address space issues and properly allocate precious federal resources.

As you are aware, the Savannah Courthouse Project has been on the 5 year plan for 21 years. Everyone who visits the current structure recognizes the safety, security and space challenges that necessitate the long needed addition to this Historic and cherished building which many consider an architectural focus point of an architecturally focused city.

The main concern of the GAO team appears to be that on the day they visited in Savannah, there were only four Judges located in the Courthouse. They counted Judges and Courtrooms and, based on that count, recommended a complete change in process. I write to make dual points. First, a snapshot count is not necessarily accurate. Second, it is most assuredly incomplete. An active district judge in Savannah, Judge Moore, will most likely take senior status in the foreseeable future. Furthermore as I write, an additional Bankruptcy Judge is

See comment 21.

March 15, 2013  
Page 2

undergoing background checks and, once completed, that Judge will join the others in the Savannah Courthouse as well. The point is, more Judges are most assuredly on the way. Second and moreover, the layout of the building and the security concerns of escorting judges in and around hostile parties present true security hazards. Indeed, the GAO team had to vacate the public hallway during the transfer of a prisoner from the public elevators to Judge Moore's courtroom. No one believes such dangerous conditions can hold.

We strongly believe that it is inappropriate to now subject the Savannah courthouse annex project to undergo an Asset Management Plan. Quite simply, we are out of space, we are already in the re-design phase, and we have replacement judges coming on board. Over \$6 million has been spent on design services, with the on-going Feasibility Study for redesign already in process. Our country is simply not in a position to waste that money.

In this regard please consider the following additional background facts not contained in the GAO report:

1. Building Condition: In 1989, the initial need to evaluate the courthouse was undertaken as a Long Range Facility Plan, prior to the Asset Management Plan process (AMP). It was obvious from the outset that the Savannah Courthouse had not been maintained over the years. Even today, GSA outlines in a recent memo that the courthouse has had several years of neglect in maintenance requirements in anticipation of a new courthouse annex and a renovation of the present facility. The same memo states that there is an "eminent danger" that exterior design elements such as corbels and balconies may fall off the building. Structural cracks are visible in several parts of the building. This is all part of a repair and alteration future prospectus of over \$4 million, and will include many more additional scope items once uncovered by the current contractor's investigations. The GAO was shown the effects of the deferred maintenance and structural repairs needed while touring the Savannah Courthouse. We were disappointed these observations were not mentioned within the report. Attached please find a few photos to illustrate these issues.

2. Design Guide Standards and Building Codes: This building was built in 1899. Over the years, building standards have changed to accommodate the business of the court. The U. S. Court Design Guide establishes building requirements for courtrooms and office space. In most cases we are materially deficient in this area, including the need for two additional fire egress stairways within multiple dead-ended public corridors. Three of the existing four courtrooms do not meet usable square footage or ceiling height requirements. Courtrooms should have space for witness rooms and holding areas for prisoners, which all Savannah Courtrooms currently lack. There is a need to segregate witness and prisoners for many reasons and there is no space to accommodate this need. Office space remains as designed over a century ago, without the same code compliance and standards which should be applied for the maximum efficiency of running court business. Again, these observations were made during the GAO tour of the building but were not mentioned within the report.

March 15, 2013  
Page 3

See comment 25.

3. Security: The need for better marshal, judicial, juror and public access and movement within the building is critical. There is no secure sally port and no restricted elevator. The public, jurors, judges and prisoners all share the same hallways. There are no courtroom holding cells adjacent to the three district courtrooms. The U.S. Marshal Service recognizes this danger and has characterized it as "a disaster waiting to happen." This situation was explained to the members of the GAO tour, but the report also failed to mention this observation.

4. Space Requirements: The Court has exhausted all the usable square feet within the existing courthouse. The basement and attic, which are not suitable for anything other than storage and mechanical space, are charged at premium rental rates and are currently housing some of the court staff. This attic space is not ADA compliant. GSA has been tasked with accommodating not just the ten year space requirements of the court, but those for thirty years, as well. Only a new courthouse annex will address this need.

5. Money previously spent: Congress has authorized and appropriated \$10.5 million for site and design for a new courthouse annex. To get a building redesigned and completed within a city cited by The United Nations as a "World Heritage Site" is very costly and requires many approvals including two historical review committees. The selected site is the only viable alternative for an annex, with Congress authorizing the demolition of the current federal buildings upon the site. These two buildings, toured by the GAO, were noted by them to be inefficient and badly constructed in 1983. Nearly all federal offices that leased the two federal buildings have been moved, including a congressman who years ago left for better commercial leased space. In fact, one of the buildings was so ill conceived that nothing remains in it.

The Robert A.M. Stern designed courthouse annex has undergone serious scrutiny and has met all the approvals, both locally and with the GSA Public Buildings Service. Currently, the GSA and the courts are reviewing these plans and modifying them to meet new standards including courtroom sharing along with reduced space requirements, which have been revised, twice.

In conclusion, the Asset Management Planning process (AMP) was not in place, nor was courtroom sharing, when this project was approved by Congress for funding. The AMP process defines both current and future housing assumptions for the court, district wide. The AMP process identifies housing options, not new construction, for district locations that have either grown past the current usable square footage of the present facility, or have approved judgeships and new staffing formulas. Since the funding for the Savannah courthouse annex, there have been newly appointed judgeships for replacement judges in Savannah, Brunswick and Augusta. However, due to existing constraints of the present Savannah courthouse, only Brunswick and Augusta could accommodate these replacement judgeships, leaving Savannah without a replacement judge's chambers and courtroom. Again, courtroom sharing for senior judges, post the 1999 design of the annex, will provide a senior courtroom.

See comment 26.

March 15, 2013  
Page 4

As a court, we have done, and will continue to do, our part as good stewards of our space. Ultimately this decision needs to be based on carrying out of our mission to the public and keeping a safe environment so that all parties can interact in the proper fashion. Judges, jurors and the public need to be separated from the dangers of prisoner movement. This is impossible under the current conditions.

After over one hundred years, this court is in need of a new, secure, modern facility, and the courthouse annex is our only hope. Anything done to change the rules for evaluating this need will, at this point, be wasteful, dangerous, and unfair. Thank you for considering our plight.

With kindest regards, I am

Sincerely,



Lisa Godbey Wood, Chief Judge  
United States District Court

cc: Honorable William T. Moore, Jr.  
Honorable B. Avant Edenfield  
John J. Myers

Note: Photos included in Enclosure 1 to the AOUSC's letter.

See comment 27.



SAVANNAH COURTHOUSE, 125 BULL STREET, SAVANNAH, GA, 31401  
INTERIOR



Major floor crack which runs perpendicular to the support wall of the Bell Tower. The Bell Tower also has cracks.



Third floor bathroom, southside of building. Photo shows intrusive water damage.



Fourth floor in Computer Department. Photo shows stress crack in plaster around door frame.

## Appendix V: Comments from the Federal Judiciary

Note: Revised table included in enclosure 2 to AOUSC's letter.

Enclosure 2

See comment 28.

Table 2: Courtroom Counts, Judiciary's 5-year Plan Courthouses

Courthouse Location	Number of Courtrooms		
	In Existing Courthouse <sup>a</sup>	Needed After Judiciary Courtroom Sharing Policies Applied	Additional Number Needed After Judiciary Courtroom Sharing Policies Applied
Mobile, AL	11 9	8 7	(2) ✓ ok
Nashville, TN	12 9	11 7	11 (2) ✓ ok
San Antonio, TX	10 8	8 7	(1) ✓ ok
Anniston, AL	2 ✓	2 ✓	0 ✓ ok
Chattanooga, TN	8 4	8 8	0 4
Norfolk, VA	9 ✓	8 7	8 (2) ✓ ok
Savannah, GA	4 ✓	4 ✓	0 ✓ ok
Des Moines, IA	7 5	8 9	1 4
Harrisburg, PA	6 ✓	7 ✓	1 ✓ ok
Toledo, OH	8 5	7 4	(1) ✓ ok
Charlotte, NC	6 ✓	8 10	2 4
Greenville, SC <sup>b</sup>	8 3	8 6	3 ✓ ok

Source: GAO Analysis of GSA and Federal Judiciary data

<sup>a</sup>Some existing courtrooms may not meet Design Guide standards for size. However, according to AMP guidance a disparity between space in an existing facility and the Design Guide standards is not justification for facility alteration and expansion.

<sup>b</sup>The new Greenville courthouse is to consolidate the judges from courthouses in Anderson and Spartanburg, South Carolina.

We visited two courthouses on the current 5-year plan that were selected as new construction projects under the prior capital planning process—Savannah and Anniston built in 1899 and 1906, respectively. These historic courthouses qualified for new construction under the previous process because of space needs and security and operational deficiencies due to their age, condition and building configuration. According to judiciary and GSA officials, neither courthouse meets *Design Guide* standards for (1) the secure circulation of prisoners, the public, and courthouse staff and (2) the adjacency of courtrooms and judge's chambers; however, neither of these courthouses would qualify for new construction under the AMP criterion as both have a sufficient number of existing courtrooms for all the judges.<sup>26</sup> Specifically, the Savannah and Anniston courthouses each have enough courtrooms for all assigned judges to have exclusive access to their own courtroom. Savannah currently houses one district judge, one senior district

<sup>26</sup>According to GSA officials, regardless of whether a project is on the 5-year plan, GSA is responsible for ensuring that courthouses remain safe, functional workspaces.



---

The following are GAO's comments on the Administrative Office of the United States Courts (AOUSC) letter dated March 29, 2013.

---

## GAO Comments

1. AOUSC stated that we failed to understand the purpose of the 5-year plan, indicating that it is not a long-term capital investment plan. The draft report that we provided to AOUSC for comment indicates that the 5-year plan is not a long-term capital investment plan. However, the 5-year plan represents the only document that communicates the judiciary's recommendations related to new courthouse projects to Congress and other stakeholders. Since it is important for stakeholders to understand the context for new courthouse projects, we continue to believe that the judiciary should improve the completeness and transparency of the information the judiciary uses to justify these projects.
2. AOUSC stated that funding for the projects totaled \$188.29 million, but did not provide any supporting information for this amount. We used General Services Administration (GSA) data to determine the amount of funding appropriated for the projects on the 5-year plan, which we state to be \$177 million in our report.
3. AOUSC stated that GSA already provides sufficient information to Congress on the judiciary's behalf for courthouse projects. While GSA provides information to congressional committees when seeking authorization for new courthouse projects, by that time, the judiciary has already recommended the projects for new construction. The 5-year plan represents the only document that communicates the judiciary's recommendations for new construction, and it is incomplete and lacks transparency. For example, the 5-year plan underestimates the total costs of these projects by about \$2 billion because it does not include all project phases and because the judiciary no longer includes its rent costs on the 5-year plan.
4. AOUSC was critical of our conclusion that the AMP process does not link to the judiciary's strategic plan. According to AOUSC, the template for future Long-Range Facilities Plans will clearly illustrate how the AMP process supports and links to the judiciary's strategic plan. We continue to welcome improvements to the judiciary's approach to strategic planning for courthouse construction. We will assess these changes when they are implemented, as part of our recommendation follow-up process.
5. AOUSC noted that, with respect to our recommendation, imposing a moratorium and reviewing the projects on the 5-year plan under the AMP process would create a delay of up to 6 years and that 10 of the 12 projects have been on the 5-year plan since 1999 or earlier. AOUSC states in its response that the previous capital-planning process was "stringent," and as a result should be respected for its policy and budgetary implications. We have previously found deficiencies in the judiciary's previous capital planning



process, including that the judiciary tends to overstate the number of judges that will be located in a courthouse after 10 years. Our draft report noted that the AMP process represents progress by the judiciary in better aligning its capital-planning process with leading practices. When the judiciary applied the AMP process to two projects on a previous 5-year plan—San Jose, California, and Greenbelt, Maryland—neither project ranked among the judiciary’s revised priorities for new construction, indeed, they ranked 117<sup>th</sup> and 139<sup>th</sup>, respectively. In addition, only two projects in the current 5-year plan qualify for new construction under the judiciary’s AMP process. Shifting courthouse priorities demonstrate a process that is not yet finalized. Given the federal government’s current budgetary condition, the judiciary should assure the Congress through its planning process that the courthouses prioritized for construction funding truly represent its most urgent needs. Otherwise, the government stands to potentially spend billions of dollars on courthouse construction that does not meet the judiciary’s most urgent needs. Assessing all courthouses under the AMP process, given the problems of the previous process, would help assure the judiciary and the Congress that the highest priority courthouses are selected and that the government is effectively spending construction funds.

6. AOUSC stated that the declining conditions in existing courthouses on the 5-year plan place judges, staff, and the public in harm’s way. Our work over a number of years has shown that many federal buildings face deteriorated conditions, a reason that federal property was included on GAO’s High Risk List. The courts are not alone in this regard. Our draft report noted that GSA is responsible for ensuring that courthouses are adequately maintained. As a result, GSA addresses building maintenance issues regardless of the status of the courthouse construction program. In addition, we note that the criteria the judiciary uses to select new courthouse construction projects are its own. The AMP process established that space shortages, not facility condition, are the only criteria for requesting new courthouse construction.
7. AOUSC noted the security concerns at existing courthouses we visited that we did not independently evaluate. For additional context, we added to the report references to the judiciary’s approach to improve security within existing courthouses rather than replace them with new courthouses. The judiciary’s AMP process criteria are consistent with this approach, as facility security deficiencies under the AMP process are no longer a justification for new courthouse construction.
8. AOUSC attached a letter from Chief Judge Lisa Godbey Wood of the Southern District of Georgia, which we have printed in this report on pages 47 to 54. We address Judge Wood’s comments separately (see comments 21-27).

9. AOUSC stated table 2 included incorrect information and provided revisions to the table. We stand by the information provided in our report, which was provided by the GSA and the judiciary and was reviewed consistent with our internal controls under generally accepted government auditing standards. The AOUSC's most recent numbers relate only to one courthouse in each city, but our numbers represent all the judiciary's courtrooms in each city for which we used judiciary and GSA data. We revised our final report to clarify that the number of courtrooms in table 2 were for cities, some of which have more than one existing courthouse. For example, in Chattanooga, Tennessee, the AOUSC revised our number of courtrooms from six to four possibly because there are only four courtrooms in the Joel W. Solomon Federal Building and United States Courthouse from which the judiciary is seeking to relocate district and magistrate judge's chambers and courtrooms. However, there are six courtrooms in Chattanooga because the bankruptcy judges' chambers and courtrooms are located in a leased former post office/customs house.
10. AOUSC stated that the criteria of needing two or more courtrooms in order to recommend constructing a new courthouse pertains to the housing strategy recommendations contained in a district's Long Range Facilities Plan, and that the next step is the completion of a GSA feasibility study. However, AOUSC is describing the new AMP process. The fact remains that most projects on the current 5-year plan were selected based on their evaluation under the judiciary's previous capital-planning process, which did not include the courtroom shortage criteria. As a result, those courthouses slated for new construction under the old process and those selected under the new process are not comparable and do not represent the judiciary's highest priorities.
11. AOUSC noted that when projects on the 5-year plan have a shortfall of one courtroom as opposed to two, the GSA feasibility study concluded that new courthouse construction was recommended. Our draft report observed that although a project may not qualify for new courthouse construction under the AMP process, GSA may determine through a feasibility study that new construction is the most cost-efficient, viable solution despite the fact the courthouse in question did not rise to the top in the selection process.
12. According to AOUSC, two projects were removed from the 5-year plan because their space needs had changed and not because their rankings dropped. Our draft report correctly stated that reduced space needs contributed to the removal of these projects from the 5-year plan.
13. AOUSC questioned if we reviewed any of the Long Range Facility Plans produced as part of the AMP process and the previous capital planning process. We reviewed these judiciary documents and have revised the description of our methodology discussed in appendix I to include the names of the documents related to the judiciary's capital-planning process that we

reviewed while developing this report. Specifically, we added the Long Range Facility Plans, Facility Benefit Assessments, Citywide Benefit Assessments, Urgency Evaluations, and the 5-year plan.

14. AOUSC stated that our assessment that the AMP process partially aligns with the leading capital practice related to “needs assessment and gap identification” was a gross error. According to AOUSC, it is not the judiciary’s role to generate cost estimates, and they believe that our partially aligns assessment is too low. While GSA is responsible for estimating the costs of courthouse projects, we continue to believe that the judiciary’s capital-planning process partially—not fully—aligns with this leading practice. GAO and Office of Management and Budget (OMB) guidance has established that estimates of life-cycle costs are necessary for accurate capital planning. The judiciary’s 5-year plan lists GSA estimated costs, but they are incomplete. Specifically, the cost estimates do not include all project phases—site acquisition, building design, and construction. In addition, the judiciary no longer includes the estimated cost of rent in its 5-year plan even though they have estimated costs for all project phases and rent. We believe this omission denies stakeholders and congressional decision makers complete information on judiciary construction-program costs. In addition, our draft report notes that these estimates are not life-cycle costs, which would also have to be included for the cost estimate to be comprehensive.
15. AOUSC disagreed with our assessment that the AMP process partially aligns with the leading capital practices related to “alternatives evaluation” because the judiciary does evaluate options with an emphasis on the least costly option. AOUSC also indicated that we did not consider Long Range Facility Plans in making this determination. We did consider Long Range Facility Plans, and continue to believe that the judiciary’s capital-planning process partially aligns with this leading practice. GAO and OMB guidance established that leading organizations carefully consider a wide range of alternatives. Our draft report noted that the AMP process evaluates some alternatives, such as renovating existing courthouses to meet needs, but the judiciary provided no evidence that it considered other viable options, such as courtroom sharing in existing courthouses, even though courtroom sharing is required in new courthouses.
16. AOUSC disagreed with our assessment that the AMP process partially aligns with the leading capital practices related to establishing a “review and approval framework with established criteria for selecting capital investments” because our draft report indicated that the judiciary has established such a framework. We continue to believe that the judiciary’s capital-planning process partially aligns with this leading practice because while we were able to discern that there are review and approval criteria in the AMP process, we found no evidence that the judiciary’s current 5-year plan applies those

criteria. Specifically, the judiciary established the criterion that courthouses need to have a shortage of two or more courtrooms to qualify for a new courthouse construction project. However, 10 of the 12 projects recommended for new construction on the 5-year plan do not qualify under this criterion.

17. AOUSC stated that we used incorrect and inflated estimates for project costs. We sought to provide total project cost estimates for each project on the 5-year plan. Our draft report uses estimates that the judiciary provided for total project costs and rent, which we adjusted for inflation to the current fiscal year. In response to our statement of facts, AOUSC provided a revised table (reprinted on p. 51 of this report). However, the data in the table that AOUSC provided were incomplete and they did not include supporting documentation. Consequently, we continue to use the most current, complete estimates of the total project costs and rent available.
18. AOUSC stated that the estimates of total project costs were provided to them by GSA. We added GSA to the source of table 1.
19. AOUSC stated that the judiciary has implemented changes to address recommendations from our 2010 report (GAO-10-417). GAO has a process for following up and closing previous recommendations. We have not yet assessed the extent to which the judiciary's actions have fulfilled the recommendations from our 2010 report. We will, however, consider this and all other information from the judiciary when we determine whether to close the recommendations from our 2010 report. We plan to examine this recommendation in the summer of 2013.
20. According to AOUSC, the projects on the 5-year plan are fully justified under its previous "stringent" process that preceded the AMP process. However, as we have previously noted, the former process had shortcomings and in our opinion does not represent a process that the Congress should rely upon for making capital budget decisions. The new AMP process will, when complete, likely provide Congress with greater assurance that the judiciary's construction priorities represent the highest priority needs. We addressed the difference in funding for the projects on the current 5-year plan in comment 2.
21. Judge Wood stated that the number of judges in Savannah may change. For each project, we used data provided by AOUSC. However, in our 2010 report (GAO-10-417), we found that the judiciary often overestimated the number of future judges it would have in planning for new courthouses.
22. According to Judge Wood, it is inappropriate to subject the Savannah courthouse to the AMP process when over \$6 million has already been spent on design services. We found, and the AOUSC agreed, in comments to our draft report, that the Savannah courthouse has four courtrooms and four judges. Consequently, it does not qualify for new construction under the AMP

criterion. In addition, according to GSA, the original courthouse design from 1998, to which Judge Wood refers, is old and outdated. As a result, if the project moves forward, the government would need to spend additional money to redesign a new courthouse for Savannah.

23. Judge Wood noted the poor condition of the existing Savannah courthouse and the need for a repair and alterations project to address deferred maintenance issues. We toured this courthouse and noted many of the same deficiencies. Our draft report noted that regardless of whether a project is on the 5-year plan, GSA is responsible for ensuring that courthouses are adequately maintained. In addition, as the current plan for the Savannah project is to continue to use the existing courthouse and build an annex, deferred maintenance in the existing courthouse would still need to be addressed if the plan moved forward.
24. Judge Wood noted that the existing Savannah Courthouse was built in 1899 and has several deficiencies to *Design Guide* standards. Our draft report noted that some existing courtrooms may not meet *Design Guide* standards for size. However, as we also note, according to AMP guidance, a disparity between space in an existing facility and the *Design Guide* standards is not justification for facility alteration and expansion.
25. Judge Wood noted several security concerns in the existing Savannah Courthouse. See comment 7.
26. Judge Wood noted that the Savannah Courthouse project preceded the AMP process and the courthouse needs an additional courtroom and judge's chamber. We address the judiciary's previous capital planning process and judge and courtroom counts in Savannah in comments 20 and 21, respectively.
27. Judge Wood attached photos documenting some of the building condition problems at the Savannah Courthouse, and those are reprinted on pages 49 and 50. See comment 23.
28. AOUSC provided changes to the courtroom numbers in table 2 from our draft report. As we explained in comment 9, we changed the table to make clear that the courtroom count refers to the number of courtrooms citywide, not just in one courthouse.

---

# Appendix VI: GAO Contact and Staff Acknowledgments

---

## GAO Contact

Mark L. Goldstein, (202) 512-2834 or [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov)

---

## Staff Acknowledgments

In addition to the contact named above, Keith Cunningham, Assistant Director; George Depaoli; Colin Fallon; Geoffrey Hamilton; James Leonard; Faye Morrison; and Sara Ann Moessbauer made key contributions to this report.

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<http://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <http://www.gao.gov> and select "E-mail Updates."

---

## Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

---

## Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#). Visit GAO on the web at [www.gao.gov](http://www.gao.gov).

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: [fraudnet@gao.gov](mailto:fraudnet@gao.gov)

Automated answering system: (800) 424-5454 or (202) 512-7470

---

## Congressional Relations

Katherine Siggerud, Managing Director, [siggerudk@gao.gov](mailto:siggerudk@gao.gov), (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

---

## Public Affairs

Chuck Young, Managing Director, [youngc1@gao.gov](mailto:youngc1@gao.gov), (202) 512-4800, U.S. Government Accountability Office, 441 G Street NW, Room 7149, Washington, DC 20548



Please Print on Recycled Paper.