

COURTHOUSE CONSTRUCTION

COURTHOUSE CONSTRUCTION FUNDING AND THE JUDICIARY COURTHOUSE PLANNING AND PRIORITIZATION PROCESS

The federal courthouse construction program is administered jointly by the judiciary and the General Services Administration (GSA). The judiciary establishes priorities for courthouse construction projects and sets the housing requirements for each project to ensure that completed facilities meet the needs of the courts. GSA, as the holder of real property authority, secures the funding for courthouse construction, acquires the building site, and completes design and construction work on the facilities themselves.

The judiciary sets forth its priorities for courthouse construction funding on its *Federal Judiciary Courthouse Project Priorities (CPP)* list. The *CPP* is divided into two parts. Part I consists of the judiciary's highest courthouse construction funding priorities for the budget year. Part II identifies out-year courthouse construction priorities. As described in detail below, the most recent *CPP* includes the following project priorities for fiscal year (FY) 2023: San Juan, Puerto Rico; Hartford, Connecticut; and Chattanooga, Tennessee.

MANAGEMENT OF PRIOR YEAR COURTHOUSE CONSTRUCTION FUNDING

In FY 2016, Congress provided \$948 million to GSA for the construction of courthouses on the *CPP* list, as approved by the Judicial Conference in September 2015. This unprecedented infusion of resources fully funded all four projects on Part I of the *CPP* at that time (Nashville, Tennessee; Toledo, Ohio; Charlotte, North Carolina; and Des Moines, Iowa), as well as the first four projects on Part II (Greenville, South Carolina; Anniston, Alabama; Savannah, Georgia; and San Antonio, Texas). A fifth project from Part II (Harrisburg, Pennsylvania) also received partial funding. In total, of the 11 projects on the September 2015 *CPP*, eight received full funding, and a ninth received partial funding. In addition, \$53 million was appropriated for new construction and acquisition of facilities that are joint U.S. courthouses and federal buildings in Greenville, Mississippi, and Rutland, Vermont. Joint courthouse/federal building projects are prioritized by GSA and do not appear on the judiciary's *CPP*. All of these courthouse projects have been authorized by both the House Committee on Transportation and Infrastructure and the Senate Committee on the Environment and Public Works.

In FY 2018, Congress provided the remainder of funding needed for the project in Harrisburg, Pennsylvania (\$137.2 million), as well as complete construction funding for two additional projects: Huntsville, Alabama (\$110.0 million) and Fort Lauderdale, Florida (\$190.1 million). Both the Huntsville and Fort Lauderdale projects have received authorization and are underway.

In FY 2021, Congress provided partial funding of \$135.5 million for the Hartford, CT, courthouse, and partial funding of \$94.5 million for the Chattanooga, TN, courthouse. Both projects are awaiting congressional authorization and remaining funds in FY 2022.

Since receiving funding in FY 2016, the Rutland, VT courthouse acquisition was completed in October 2018, and the Charlotte, NC Annex, Savannah, GA Annex and the Greenville, SC projects were completed in FY 2021. The San Antonio, TX new courthouse project was completed in December 2021, and the Nashville, TN; Anniston, AL; and Harrisburg, PA new courthouses are expected to be completed in FY 2022.

Each of the remaining fully funded projects (Harrisburg, PA; Charlotte R&A, NC; Des Moines, IA; Greenville, MS; Toledo, OH; Savannah R&A GA; Huntsville, AL; and Ft. Lauderdale, FL) is in a different stage of development. The Administrative Office of the U.S. Courts (AO) continues to engage with GSA, the U.S. Marshals Service (USMS), and other Executive Branch stakeholders on a number of portfolio management activities to ensure that additional milestones are reached, and projects remain on track. These activities include regular coordination and project status meetings; development of a communications and program management plan; establishment of a National Courthouse Change Management Board to oversee changes impacting scope, schedule, and budget; and deployment of a program management dashboard to track progress. Ongoing coordination continues among judiciary stakeholders to address issues impacting the portfolio including risks, policies, and best practices.

UPDATES TO THE CPP

In September 2021, the Judicial Conference of the United States approved an updated *CPP* list for FY 2023. The FY 2023 *CPP* is the second to incorporate the requirement that any project considered for addition to Part I must have a completed GSA Phase II feasibility study. This requirement helps improve the quality of GSA cost estimates associated with Part I projects, for which funding is being sought.

The approved *CPP* for FY 2023 (see page 14.5) reflects the continuing judicial space emergency in San Juan, Puerto Rico, which makes that project the de facto top courthouse construction priority of the judiciary. Part I of the FY 2023 *CPP* is unchanged from the FY 2022 *CPP* and continues to show Hartford, Connecticut, and Chattanooga, Tennessee. On Part II, there is a shift in the Urgency Evaluation (UE) rank order of two locations since the FY 2022 *CPP*. Specifically, the UE rating and ranking for Greensboro/Winston-Salem, North Carolina, dropped and conversely, the UE rating and ranking for McAllen, Texas, increased. Accordingly, the priority order of projects on Part II of the new *CPP* changed to reflect the updated 2021 UE scores by switching the order of these two projects.

Judicial Space Emergency

San Juan, Puerto Rico - \$262.2 million for design and construction (site is federally owned)

The Clemente Ruiz-Nazario U.S. Courthouse and Federico Degetau Federal Building in San Juan were declared a judicial space emergency by the Judicial Conference in September 2020. In early 2018, the Puerto Rico District Court was informed that the Federico Degetau Federal Building was among eight courthouses found to be structurally deficient and at extremely high risk for seismic activity. GSA reported that the federal building did not meet the required performance level and that significant, and invasive, seismic remediation work was necessary. Recommended seismic upgrades to the Degetau Federal Building include reinforcing columns, new shear walls, concrete deck doweling and replacement, retrofitting the existing spandrels at the perimeter walls, and adding seismic bracing to the mechanical systems. In order to safely perform the necessary seismic work, a new annex needs to be constructed in advance to provide not only necessary permanent expansion space for the court but also temporary swing space for all tenants during the invasive seismic upgrade to the Degetau Federal Building.

GSA currently estimates that \$262.2 million is needed for design and construction of the annex. No project funding has been appropriated to date, nor has the project been authorized. The proposed new annex will meet the expansion needs of the district court with six district courtrooms and ten chambers, provide secure circulation for prisoner movement, and expand facilities for prisoner management to better accommodate the USMS.

The two projects on Part I of the FY 2023 *CPP* (which are unchanged from FY 2022) are described in detail below.

1. ***Hartford, Connecticut– \$199.5 million for construction (\$135.5 million previously funded in FY 2021 for site, design, and construction)***

The Abraham Ribicoff Federal Building and U.S. Courthouse (Ribicoff Federal Building) in Hartford, Connecticut, is number one on the judiciary's *CPP* list for FY 2023. GSA estimates a total of \$335.0 million is required for site acquisition, design, and construction of the new courthouse. \$135.5 million was appropriated for the project in FY 2021 for full site and design and partial construction. The amount requested in FY 2023 is \$199.5 million to address the remaining balance required for project construction. The update to GSA's FY 2021 cost estimate is based on the completed Hartford Phase II GSA feasibility study, selection of the final housing solution, and refinement of prior cost estimates which were based on preliminary Phase I GSA feasibility study information.

The Ribicoff Federal Building was constructed in 1963 and houses the district court, bankruptcy court, and court of appeals, among other tenants. The courthouse building currently houses 10 judges (three district judges, four senior district judges, two magistrate judges and one bankruptcy judge) and contains one hearing room and seven courtrooms (four district, two magistrate, and one bankruptcy), many of which do not meet *U.S. Courts Design Guide (USCDG)* size standards.

The Ribicoff Federal Building has considerable challenges related to prisoner movement, with no dedicated prisoner elevator and an undersized sally port, prohibiting separate public/prisoner/judge circulation. The U.S. Immigration and Customs Enforcement Office escorts 350-500 prisoners per month in this building. The annex to the Ribicoff Federal Building, constructed in 1991, has ongoing water intrusion, air quality, and HVAC issues. The annex also suffered extensive damage after a major storm in 2008.

2. ***Chattanooga, Tennessee– \$123.9 million for construction (\$94.5 million previously funded in FY 2021 for site, design, and construction)***

The Chattanooga U.S. Courthouse is number two on the judiciary’s *CPP* for FY 2023. GSA currently estimates that a total of \$218.4 million is needed for site acquisition, design, and construction of the courthouse. The update to GSA’s FY 2021 cost estimate of \$189.1 million is based on the completed Chattanooga Phase II GSA feasibility study, selection of the final housing solution, and refinement of prior cost estimates which were based on preliminary Phase I GSA feasibility study information. \$94.5 million was appropriated for the project in FY 2021 for full site and design and partial construction. The amount requested in FY 2023 is \$123.9 million to address the remaining balance required for project construction, based on the updated GSA cost estimate.

The existing courthouse was constructed in 1933 and houses the district court, among other court and non-court related tenants. The courthouse building houses five judges (two district judges, one senior district judge, and two magistrate judges) and contains three courtrooms (one district and two magistrate) and one hearing room. The bankruptcy court is currently housed in leased space (two bankruptcy judges using one bankruptcy judge courtroom and one hearing room). The courthouse building lacks adequate security, does not provide for future expansion, and does not meet *USCDG* standards. Because of inadequacies in the existing building’s configuration and size, judges, prisoners, and the public must use the same public elevators and corridors. There are not enough courtroom holding cells. The prisoner access route to one of the magistrate judge courtrooms passes through the magistrate judge’s chambers. Further, the building lacks a prisoner sally port, adequate setbacks, or perimeter barriers. The building has ongoing water infiltration issues, mold issues, and a major rat infestation

throughout the building, as well as the presence of asbestos. None of the courtrooms meet the recommended size requirements of the *USCDG*, nor accessibility requirements for persons with disabilities.

**FEDERAL JUDICIARY COURTHOUSE PROJECT PRIORITIES (CPP) FOR FISCAL YEAR 2023
AS APPROVED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES
SEPTEMBER 2021**

The *Federal Judiciary Courthouse Project Priorities (CPP)* is the Judiciary's list of courthouse construction funding priorities as approved by the Judicial Conference of the United States (Judicial Conference). The *CPP* was developed using the results of the Asset Management Planning (AMP) process. Approved by the Judicial Conference in 2008, AMP is a comprehensive facility planning tool designed to identify the Judiciary's most urgent space needs, address cost-containment concerns, and incorporate applicable industry best practices.

Under the AMP process, each courthouse nationwide is assessed to determine current and future needs, identify preliminary housing solutions as needed, and calculate the relative urgency of need compared to other courts nationwide. Factors considered include building condition, building functionality, security, compliance with space standards, courtroom and chambers needs, and caseload and personnel growth. From this assessment, an Urgency Evaluation (UE) Results List that ranks space urgency by court location on a "worst first" basis is developed. Each location's UE rating is updated annually until a project is placed on Part I of the *CPP*, at which time its rating is "frozen" for purposes of planning certainty.

The *CPP* is divided into two parts. Part I, provided below, consists of the Judiciary's courthouse construction funding priorities and space emergencies for FY 2023. In addition, in September 2020, the Judicial Conference declared a judicial space emergency for the Nazario U.S. Courthouse and Degetau Federal Building Hato Rey, Puerto Rico, due to unique circumstances resulting from GSA's planned seismic retrofit of the Degetau Federal Building and the significant detrimental impact it would have on district court components housed in the Degetau Federal Building. All projects on Part I have a completed GSA Phase II feasibility study or equivalent to establish cost estimates and housing solutions needed to address local court housing needs.

Judicial Space Emergency										
			FUNDING SUMMARY (\$M)							
District	City	Project Description	FY 2023 Funding Request		Previously Funded		Est.Total (Site/Design, Construction)	Site Acquired	Status (as of 9/2021)	
			Site/Design	Construction	Site/Design	Construction				
District of Puerto Rico	San Juan	Courthouse Annex	22.476	239.696	0.000	0.000	262.172	Yes	GSA Feas. Study Completed	
NOTES:										
- Cost estimate based on 2021 GSA phasing study. GSA will submit a separate future year funding request in order to complete their full Master Plan for the Hato Rey Judicial Complex										
- Site for Courthouse Annex federally owned										

Part I: Fiscal Year (FY) 2023 Courthouse Construction Funding Priorities										
			FUNDING SUMMARY (\$M)							
Priority	District	City	Project Description	FY 2023 Funding Request		Previously Funded		Est.Total (Site/Design, Construction)	Site Acquired	Status (as of 9/2021)
				Site/Design	Construction	Site/Design	Construction			
1	District of Connecticut	Hartford	New Courthouse	0.000	199.470	58.636	76.864	334.970	No	GSA Ph II Feas. Study Completed
2	Eastern District of Tennessee	Chattanooga	New Courthouse	0.000	123.881	39.668	54.832	218.381	No	GSA Ph II Feas. Study Completed
TOTAL:				0.000	323.351	98.304	131.696	553.351		
NOTES:										
- All projects have been assessed using the AMP process; Judiciary policies pertaining to courtroom sharing and the exclusion of projected judgeships have been applied to all projects										

Part II of the *CPP* identifies outyear courthouse construction priorities. All locations have been assessed under the AMP process and prioritized based on the project location's UE rating. As projects in Part I are funded and constructed, projects in Part II may potentially move to Part I. A project location must have a completed GSA Phase II feasibility study before moving to Part I. In selecting which projects should begin a Phase II study, the Judicial Conference will rely heavily on a location's UE rating. Where multiple locations have similar scores, additional factors may be considered, including prisoner production figures during a given period of time, previous funding, and whether the current facility is owned by GSA. When a GSA Phase II feasibility study has been completed, that project will be elevated to Part I and placed behind any other locations already on Part I the next time the *CPP* is updated. Until a location is moved to Part I, its UE rating will be refreshed each year to capture changes in courtroom needs, chambers needs, and caseload growth, and as a result, its place in the prioritization of Part II projects may change.

Part II: CPP Outyear Courthouse Construction Priorities (Based on 2021 Urgency Evaluation Rating)				
District	City	2021 UE Rating	Site Acquired	Status (of 9/2021)
Western District of Kentucky	Bowling Green	66.705	No	GSA Ph II Feasibility Study In-Progress
District of Alaska	Anchorage	46.961	No	GSA Ph II Feasibility Study Requested
Southern District of Texas	McAllen	37.273	No	GSA Ph I Feasibility Study Completed
Middle District of North Carolina	Greensboro/W-S	36.390	No	GSA Ph I Feasibility Study Completed
Eastern District of Virginia	Norfolk	34.273	Yes	GSA Feasibility Study Completed in 2010; needs refresh
NOTES:				
- Policies pertaining to Judiciary courtroom sharing and the exclusion of projected judgeships have been applied to the planning and programming of all projects				
- All projects have been assessed under the AMP process				

BACKGROUND:

Federal Judiciary Courthouse Project Priorities (CPP) List

The judiciary compiles a prioritized list of federal construction projects representing the courts' most urgent courthouse construction needs. This prioritization is based on the judiciary's long-range space planning methodology called the Asset Management Planning (AMP) process (as discussed below). Prior to FY 2016, this list was referred to as the *Five-Year Courthouse Project Plan (Five-Year Plan)*. In September 2015, the Judicial Conference recognized that the *Five-Year Plan* did not reflect an accurate funding timeline or articulate the relative urgency-of-need for projects on the *Five-Year Plan* (particularly those that remained on the plan for long periods of time). To address these concerns, the Conference adopted a new planning instrument to detail the judiciary's priorities for new construction: the *Federal Judiciary CPP* list.

The *CPP* is a two-part, two-page document. Part I lists the judiciary's highest courthouse construction priorities – projects for which the judiciary will request federal funding in its annual budget submission – in numbered priority order. The priority order of all projects on Part I is maintained until a project has been fully funded, at which point the funded project is removed from Part I. Part II of the *CPP* consists of a separate table that includes the remaining projects. Prioritization of projects on Part II is reviewed and updated annually based on the location's Urgency Evaluation (UE) score.¹ New projects may be added to Part II of the *CPP* after the completion of a Phase I GSA feasibility study that recommends the construction of a new courthouse or annex. As of September 2020, projects must have a completed Phase II GSA feasibility study before they can be elevated to Part I of the plan.

AMP Process

The AMP process was approved by the Judicial Conference in March 2008. The AMP process incorporates rigorous facility assessments and consistently applied objective standards and guidelines to evaluate space needs in federal courthouses throughout the nation. Deliverables of the AMP process include a district-wide Long-Range Facilities Plan, a Facility Benefit Assessment (FBA) score for each courthouse, and a UE ranking for each city. Through these deliverables, the judiciary identifies courthouse space issues by location, preliminary housing solutions, and relative urgency-of-need compared to other courts nationwide.

The FBA score is based upon factors grouped into one of four weighted categories:

1. Building Condition – 30 percent

¹ When two or more projects have UE scores so similar as to make meaningful prioritization among those projects difficult, the Judicial Conference Committee on Space and Facilities has approved a list of additional factors that can be used to inform the prioritization process. These factors include: (1) whether a court is currently located in a leased building as opposed to a GSA-owned facility; (2) whether the United States Marshals Service (USMS) produces a high number of prisoners for court proceedings at that location; and (3) whether the location has received past congressional funding.

2. Space Functionality – 30 percent
3. Security – 25 percent
4. Space Standards – 15 percent

The UE ranking is used to determine which courthouses throughout the nation have the most urgent space needs, regardless of the size of the courthouse or type of housing solution. There are four weighted factors used to calculate a courthouse location's UE ranking:

1. FBA score – 40 percent
2. Judges without chambers – 30 percent
3. Judges without courtrooms based on courtroom sharing policies – 20 percent
4. Projected caseload growth – 10 percent

The annual UE Results List is published early each calendar year to reflect updates in a location's courtroom or chambers needs and caseload growth, and to update or add locations that have been evaluated under the AMP process since the issuance of the prior year's UE Results List. All 94 districts and 12 circuit headquarters throughout the country have been assessed under the AMP process.