



Office of the Inspector General
U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



**Audit of the Executive Office for
Immigration Review's Fiscal Year
2019 Financial Management
Practices**



Executive Summary

*Audit of the Executive Office for Immigration Review's Fiscal Year 2019
Financial Management Practices*

Objective

The objective of our audit was to assess the Executive Office for Immigration Review's (EOIR) efforts to identify effectively its funding needs and execute its budget in light of issues that arose following EOIR's receipt of its fiscal year (FY) 2019 appropriation.

Results in Brief

We identified weaknesses in EOIR's budget planning process regarding its ability to track and forecast rising interpreter contract costs, which adversely affected EOIR's budgeting of other financial resource needs. After receiving its FY 2019 appropriation in February 2019, following the partial government shutdown, the EOIR Director sent emails to all EOIR staff announcing that this appropriation left EOIR "considerably short of being able to fulfill all of [EOIR's] current operational needs" and the need for "difficult financial decisions," even though EOIR's FY 2019 appropriation aligned with its budget request and its budget office had developed plans to sustain operations in line with its appropriation.

This audit found that EOIR's leadership failed to coordinate effectively with its budget staff and the Justice Management Division (JMD) on the status and full impact of its FY 2019 appropriation. Further, while EOIR's FY 2019 budget request did not cover what ultimately proved to be a much greater increase in interpreter fees than it anticipated, miscommunication across EOIR led to its leadership miscalculating interpreter expenses following the shutdown. EOIR was thus unable to gauge in February 2019 how much it had already spent on interpreters that year and its likely interpreter expenses for the remainder of FY 2019.

Recommendations

Our report recommends that EOIR enhance its financial management, particularly as it pertains to the use of financial management data available to leadership and how leadership communicates with its budget staff. EOIR agreed with our recommendation.

Audit Results

We initiated this audit after JMD, the Office of Management and Budget, and Congress raised concerns about EOIR-wide emails sent by the EOIR Director announcing that its FY 2019 appropriation left EOIR "considerably short of being able to fulfill all of [EOIR's] current operational needs" and called for "difficult financial decisions" and suspending certain anticipated EOIR initiatives. The EOIR Director sent these emails despite the fact that EOIR's \$563 million appropriation was in line with its FY 2019 budget request and EOIR's budget office had already developed plans to sustain EOIR operations within its \$563 million appropriation.

We found weaknesses in EOIR's budget planning process, and identified three factors that contributed to these weaknesses. First, EOIR leadership failed to coordinate effectively with its budget staff and with the JMD on the status and impact of its FY 2019 appropriation. Second, EOIR's FY 2019 budget request, which it began preparing in 2017, did not seek enough funding to cover what ultimately proved to be a much more substantial increase in interpreter fees than had been anticipated. EOIR leadership knew in 2017 that it would need to significantly increase its FY 2019 budget for interpreter fees because: (1) interpreter fees already constituted a significant portion of its budget, (2) planned changes to EOIR's court docket would result in the need for additional interpreter services, and (3) JMD was renegotiating the interpreter contract because the contractor contended that existing fees were too low. Third, miscommunication across EOIR led to leadership miscalculating interpreter expenses following the shutdown and thus being unable to gauge in February 2019 how much it had already spent on interpreters that year and its likely interpreter expenses for the remainder of FY 2019.

We also reviewed EOIR's expenditures in connection with occupying new office space for its headquarters office in Falls Church, Virginia. We did not identify concerns with these expenditures.

**AUDIT OF THE EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW'S FISCAL YEAR 2019 FINANCIAL MANAGEMENT
PRACTICES**

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AUDIT OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW'S FISCAL YEAR 2019 FINANCIAL MANAGEMENT PRACTICES

INTRODUCTION

The Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) is responsible for adjudicating immigration cases. Led by a Director who is a career member of the Senior Executive Service and appointed by the Attorney General, EOIR is largely comprised of immigration judge teams who decide whether foreign-born individuals, charged by the U.S. Department of Homeland Security (DHS) with violating immigration laws, should be removed from or allowed to remain in the United States. Two of EOIR's eight components are the Office of the Chief Immigration Judge, which handles most adjudications, and the Board of Immigration Appeals, which decides appeals from those adjudications.¹ EOIR's adjudicative functions occur at 69 immigration courts and adjudication centers across the United States, as well as at its headquarters in Falls Church, Virginia.

In fiscal year (FY) 2019, Congress appropriated a total of over \$628 million to EOIR – \$563 million as part of the annual appropriation bill passed by Congress on February 15, 2019, and \$65 million in a supplemental spending bill passed by Congress on July 1, 2019. On February 15, 2019, shortly after receiving its initial appropriation of \$563 million, which equaled the amount requested for EOIR in the President's budget, the EOIR Director sent an EOIR-wide email stating, among other things, that, "due to the nature and timing of the budget process, EOIR's appropriation does not fully address all of its current operational needs," and that "difficult financial decisions" would need to be made to ensure EOIR could continue to hire more immigration judges (IJs), address its case backlog, and implement a new electronic case management system. On March 6, 2019, the EOIR Director sent a second EOIR-wide email stating, among other things, that: (1) the budget process left EOIR "considerably short of being able to fulfill all of [its] current operational needs," (2) interpreter costs were "expected to approach \$110 million" in FY 2019, and (3) as a result, EOIR would have to make certain changes to its expenditures, including suspending an in-person IJ Training Conference in 2019, slowing the pace of hiring staff, and delaying the new electronic case management system.²

Thereafter, in July 2019, EOIR received \$65 million in supplemental funding—\$45 million for hiring additional staff for immigration judges, \$10 million for the purchase or lease of courtroom space and equipment, and \$10 million for

¹ Also within EOIR is the Office of the Chief Administrative Hearing Officer, which adjudicates certain types of administrative cases, including cases concerning unauthorized employment of foreign-born individuals, unfair immigration-related employment practices, and immigration-related document fraud.

² For the February 2019 email, see Appendix 2. For the March 2019 email, see Appendix 3.

legal orientation programs for detained migrants.³ Terms of the supplemental funding required EOIR to spend the funds by the end of FY 2019. As of September 30, 2019, the end of FY 2019, EOIR had obligated: (1) \$541 million (96 percent) of its \$563 million FY 2019 appropriation, with the remaining \$22 million authorized by Congress to remain available until expended; and (2) \$63.5 million (98 percent) of the \$65 million supplemental funding, with the remaining expiring at the end of the fiscal year.

The February and March 2019 emails from the EOIR Director raised significant concerns across the Department and at OMB regarding EOIR's ability to identify its budget needs and address its financial priorities, particularly since the initial FY 2019 appropriation of \$563 million equaled the funding that EOIR had previously requested and that was included in the President's FY 2019 budget. Similarly concerned was the Senate Appropriations Committee, which after the EOIR Director's March 6 email advised the OIG that it was concerned about EOIR's financial management practices in light of the email's claim that EOIR did not have sufficient funding to carry out certain programmatic plans. Given these concerns of JMD, OMB, and Congress, the OIG initiated this audit.

OIG Audit Approach

The objective of this audit was to assess EOIR's efforts to identify effectively its funding needs and execute its budget. The overall scope of our audit covered FY 2019, as well as the budget formulation phase that began 2 years prior, in the spring of 2017. To accomplish this objective, we assessed EOIR's decision-making concerning budget planning and contract cost tracking, and we interviewed several Department-level and component-specific budget officials and executives, including the EOIR Director, regarding how they set FY 2019 financial policies and procedures. We further reviewed documents pertaining to setting EOIR financial priorities and decisions and toured EOIR offices in Falls Church, Virginia. Additional information on our objective, scope, and methodology can be found in Appendix 1.

³ Pub. L. No. 116-26 (2019).

AUDIT RESULTS

We identified weaknesses in EOIR's budget planning process regarding its ability to track and forecast rising interpreter contract costs, which adversely affected EOIR's budgeting of other financial resource needs. These weaknesses were evidenced by two EOIR-wide emails that the EOIR Director sent following the end of the partial federal government shutdown in January 2019 and the passage by Congress of EOIR's FY 2019 appropriation bill in February 2019. The emails stated that the FY 2019 appropriation left EOIR "considerably short of being able to fulfill all of [EOIR's] current operational needs" and called for "difficult financial decisions" and suspending certain anticipated EOIR initiatives. Notwithstanding, we determined that: (1) EOIR's FY 2019 appropriation of \$563 million was consistent with its FY 2019 budget request and (2) EOIR's budget office had already developed plans to support EOIR operations within its \$563 million appropriation. We identified three factors that contributed to the weaknesses identified in this report. First, EOIR leadership failed to coordinate effectively with its budget staff and with the Justice Management Division (JMD) on the status and impact of its FY 2019 appropriation. Second, EOIR's FY 2019 budget request, which it prepared in 2017, did not seek enough funding to cover what ultimately proved to be a much more substantial increase in interpreter fees than had been anticipated. EOIR knew in 2017 that it would need to significantly increase its FY 2019 budget for interpreter fees because: (1) interpreter fees already constituted a significant portion of its budget, (2) planned changes to EOIR's court docket would result in the need for additional interpreter services, and (3) JMD was renegotiating the interpreter contract because the contractor contended that existing fees were too low. Third, miscommunication across EOIR led to leadership miscalculating interpreter expenses following the shutdown and thus being unable to gauge in February 2019 how much it had already spent on interpreters that year and its likely interpreter expenses for the remainder of FY 2019.

This report examines what occurred leading up to and throughout EOIR's FY 2019 budget planning and execution process. The first section presents a timeline of the FY 2019 budget process, starting from when EOIR first compiled its budget request in 2017, until February 15, 2019, when Congress passed FY 2019 appropriations. This timeline includes the FY 2019 continuing resolutions (CRs) that began on October 1, 2018, and the partial federal government shutdown that ended on January 25, 2019. The second section outlines the two factors that influenced EOIR leadership's perspective of having inadequate funding and the EOIR Director announcing budget restrictions via emails despite EOIR having received from Congress the full appropriation that it requested. The third section reviews EOIR's headquarters office space renovation to address a separate concern received during the audit.

FY 2019 EOIR Budget Request and Appropriation

In preparing its annual budget request, EOIR works with JMD, which is responsible for planning and interfacing with the Office of Management and Budget

(OMB) on budget and financial matters across the DOJ.⁴ EOIR's Office of Administration supports nearly all facets of EOIR financial management, including appropriations, budgets, contracts, and other procurement matters. The Office of Administration also develops and submits to the Deputy Director an operating plan to provide a high-level snapshot of how EOIR can best expend its available funding and maximize operations.

As described in Appendix 4, the Department's budget process begins approximately 18 months before the start of the fiscal year, when Department components are asked to prepare an initial budget request that is consistent with guidelines issued by OMB and the Department. Thus, for example, the budget process for FY 2019, which began on October 1, 2018, started in the spring of 2017. In preparing EOIR's initial budget request for JMD, the EOIR Office of Administration surveys EOIR divisions for anticipated program enhancement requests, such as additional government positions and other non-personnel expenses (e.g., equipment and services). EOIR also includes in its initial budget request technical adjustments to the baseline cost of current services to account for factors such as inflation, pay raises, and the annualization of new personnel salaries. After submitting its initial budget request to JMD, EOIR, like other Department components, engages in a dialogue with JMD and Department leadership about the request. The Department completes this internal budget process approximately 1 year before the start of the fiscal year, when it submits to OMB a proposed budget request for the Department and its components. Thereafter, a series of "passbacks" between EOIR, JMD, and OMB further refine EOIR's budget request until it is finalized and incorporated as part of DOJ's overall budget that is included in the President's budget request to Congress.⁵ The President's budget request is generally sent to Congress in February, approximately 8 months prior to the start of the fiscal year.

EOIR's FY 2019 Budget Request

As noted above, the Department's FY 2019 budget process began in spring 2017, before the President's FY 2018 budget request had been submitted to Congress and thus while Congress was still considering the FY 2018 budget.⁶ In preparing FY 2019 budget submissions, JMD directed EOIR and other Department components to apply, as the starting point for its initial FY 2019 budget request, the amount included in the President's FY 2018 budget to Congress. Accordingly, EOIR applied \$500.4 million as its baseline figure, which was the amount of the President's FY 2018 budget request. Following passbacks and baseline adjustments, EOIR's final FY 2019 budget request totaled approximately \$563 million and included:

⁴ JMD also supports many DOJ-wide procurements, including, as discussed in more detail below, interpreter services that EOIR immigration judges need in immigration cases.

⁵ EOIR's budget operations as it pertains to and interacts with the DOJ's complete budget cycle can be found at Appendix 4.

⁶ EOIR's FY 2019 budget process began under a former Director and was finalized after the current Director was appointed at the end of May 2017.

- Adjusting the planned allocation of funds for interpreter fees and associated costs, which EOIR anticipated rising from \$27 million in FY 2017 to over \$65 million in FY 2019;
- A \$40 million enhancement to hire 450 employees to staff 75 additional IJ teams (each comprised of an IJ and a number of support employees, such as clerks and administrative specialists); and
- A \$25 million enhancement to modernize its case management technology.⁷

Although EOIR's FY 2019 budget request anticipated that contract interpreter costs would rise, as discussed below, the actual rise in interpreter costs was even greater than EOIR had projected. Therefore, despite increases in funding, the FY 2019 budget proved insufficient to cover the actual increase in EOIR contract interpreter costs.

The President's FY 2019 budget, which was released to Congress in February 2018, included in its entirety EOIR's \$563 million funding request. However, one month later, in March 2018, Congress enacted the Department's FY 2018 appropriation bill and set EOIR's budget at \$504.5 million for FY 2018, or over \$4 million more than EOIR's FY 2018 budget request. The EOIR Director stated that the baseline figure of \$500.4 million used in EOIR's FY 2019 budget request was thus "automatically short" as it was \$4 million less than the enacted FY 2018 budget. We noted, however, that the differential between a \$567 million budget request, had EOIR's FY 2018 enacted appropriation been used in calculating EOIR's base for its FY 2019 budget request, and the President's \$563 million budget request is slightly less than one percent.

Subsequent to the submission of the President's FY 2019 budget request for EOIR, the House of Representatives and the Senate passed separate appropriation bills, or marks. The Senate mark provided EOIR with the amount requested in the President's budget of \$563 million, but the House mark funded EOIR at \$630 million. The additional \$67-million included in the House of Representatives' mark was intended to provide EOIR with funds to recruit 25 additional IJ teams (for a total of 100 more IJ teams than EOIR had in 2018), fully annualize salaries of new employees from the year prior, and upgrade information technology systems and facilities. Thereafter, the EOIR Office of Administration prepared operating plans for both the Senate and the higher House mark. For the Senate mark, EOIR's operating plan identified a \$600 million operating budget (which did not equate to

⁷ Both enhancements concerned established priorities detailed in the DOJ Strategic Plan. The DOJ Strategic Plan for 2018 – 2022 places an increased emphasis on EOIR operations. The plan identifies "Secure the Borders and Enhance Immigration Enforcement and Adjudication" as one of four DOJ strategic goals. A subpart of this goal is improving the adjudication of immigration cases in the administrative immigration courts. To achieve this directive, the DOJ plan specifies that EOIR will need to update its caseload management, expand its use of technology and data in operations and decision making, increase the number of immigration judges and courtrooms, and reduce case processing time.

either of the two marks, but rather was near the midpoint between the two), and then presented a \$37 million reduction in expenditures under that plan.

FY 2019 Continuing Resolutions, Partial Government Shutdown, and Passage of Appropriations Bill

Congress did not pass an appropriation bill for the Department, and did not resolve the differing House and Senate marks for EOIR, prior to the start of FY 2019. Instead, from October 1, 2018 (the start of FY 2019), until December 22, 2018, EOIR and the rest of the DOJ operated under a series of continuing resolutions (CRs). The CRs provided EOIR with an apportioned budget, sustaining it at the same level of funding it had received in FY 2018, but restricting any program growth or hiring. At the time of the CRs, EOIR budget officials developed an operating plan to guide EOIR finances, which we found to be in line with CR apportionments. As examples of efforts to keep EOIR within its CR apportionment throughout the fiscal year, the operating plan developed under the CR either restricted or anticipated restricting employee travel and training, hiring, personnel contracting, and the implementation of IT systems. Both the EOIR Director and the Director of the Office of Administration stated that EOIR was prepared to “live within its means,” and that there were no plans at any time during the CR period to have it spend more than its allotted funding.

We discussed this CR operating plan with the EOIR Director, who stated that while he saw the operating plan only briefly, he believed that the plan was effective at keeping EOIR operations funded during the CRs. However, the EOIR Director speculated that EOIR’s continuing operations would have become more tenuous the longer the CRs were in effect. Indeed, we confirmed that large portions of EOIR’s full-year budget, including major contracts and rent costs, were not due until later in the fiscal year. Consequently, any operating plans covering just the first months of FY 2019 were largely unaffected by CR funding restrictions. Nevertheless, the EOIR Director told us that, considering the rapidly expanding nature and capacity of EOIR, as well as its growing interpreter costs and needs, the CRs hampered EOIR’s efforts to expand its hiring and implement planned upgrades.

On December 22, 2018, funding under the last CR lapsed, and many federal agencies, including the Department, shut down due to a lack of funding. Although some EOIR functions continued during this shutdown, primarily detained immigrant hearings, the majority of EOIR staff, including those in the Office of Administration, were furloughed. In late January 2019, the partial government shutdown ended, including at DOJ, when Congress passed and the President signed another CR. Finally, in mid-February, the Department’s FY 2019 appropriations bill was enacted into law, which included an appropriation of \$563 million for EOIR. This amount reflected the lower Senate mark rather than the significantly higher House mark of \$630 million.

EOIR’s Director told us that, in previous years, the conference process for appropriation bills resulted in EOIR receiving the higher of the two marks. He thus anticipated that EOIR’s enacted appropriation would ultimately align with what was

then the higher House mark.⁸ However, EOIR officials stated that the House changed its mark in early January 2019 to align with the Senate mark. Because this change occurred when many relevant EOIR and JMD personnel were furloughed due to the shutdown, EOIR officials stated to us that there was no way to address the changed mark before the shutdown ended.

Following the end of the shutdown, EOIR officials stated that they reached out to the Department on February 14, 2019, about the status of the mark, and Department officials advised they could not do anything to address the situation.

On February 15, 2019, EOIR's Director sent an EOIR-wide email announcing that the FY 2019 appropriation did not address all of EOIR's operational funding needs and that "difficult financial decisions" would need to be made to ensure EOIR could continue to hire more IJs, address its case backlog, and implement a new electronic case management system. The following month, on March 6, the EOIR Director sent a second EOIR-wide email stating that: (1) the budget process left EOIR "considerably short of being able to fulfill all of [its] current operational needs," (2) interpreter costs were "expected to approach \$110 million" in FY 2019, and (3) as a result, EOIR would have to make certain changes to its expenditures, including suspending an in-person IJ Training Conference in 2019, slowing the pace of hiring staff, and delaying the new electronic case management system. As we discuss in the next section, neither of these emails accurately reflected EOIR's financial situation.

EOIR Director's Emails Expressing Concern about the FY 2019 Enacted Appropriation and EOIR's Ability to Conduct Operations

The EOIR Director told us that once the partial federal government shutdown ended, he discussed the enacted FY 2019 budget with budget teams at both EOIR and JMD. JMD advised there was nothing that could be done to change the enacted budget, causing what the Director characterized and perceived as EOIR not being able to meet its operational needs, at least compared to the \$630-million figure of the original House mark.

Notwithstanding, we found that EOIR budget staff was aware of EOIR appropriations and taking action to ensure it could sustain mission-critical operations with its appropriation. Specifically, EOIR's Office of Administration officials told us they worked with JMD Budget Staff to review EOIR's budget and resulting operating plan in March 2019 to confirm that the \$563-million enacted FY 2019 appropriation did not place EOIR in a budget shortfall status. EOIR budget officials likewise told us that the lower appropriation amount did not constitute a budget shortfall, and stated that the lower appropriation merely meant that staffing and technology upgrades planned for the House mark of \$630 million would be rolled out at a slower rate or delayed.

⁸ It appears the EOIR Director was not alone in assuming a larger EOIR appropriation. In September 2018, prior to enactment of the FY 2019 appropriation, JMD submitted EOIR's FY 2020 budget request to OMB applying the \$630 million mark as EOIR's budget baseline.

The EOIR Director stated that while he never personally believed that EOIR would be “insolvent” due to the lower Senate appropriation, the lower appropriation meant that EOIR would not be able to implement important, planned initiatives and upgrades. The EOIR Director further stated that he sent the February 15 and March 6 emails concerning the budget situation in an effort to promote transparency with his IJs and other EOIR employees. We asked the EOIR Director what he meant when he stated in his March 6 email, “the FY 2019 budget process has left us considerably short of being able to fulfill all of our current operational needs.” The Director told us that because the email’s intended audience was EOIR’s IJs and staff, not anyone outside of EOIR, by “needs” he meant obtaining the personnel and services the IJs needed to do their jobs, such as clerks and IT support. The Director stated that he did not intend the email to imply that EOIR could not fulfill its mission. The EOIR Director told us that the internally developed operating plan did not affect his decision to send out his EOIR-wide emails or otherwise affect the financial decisions included in the emails.

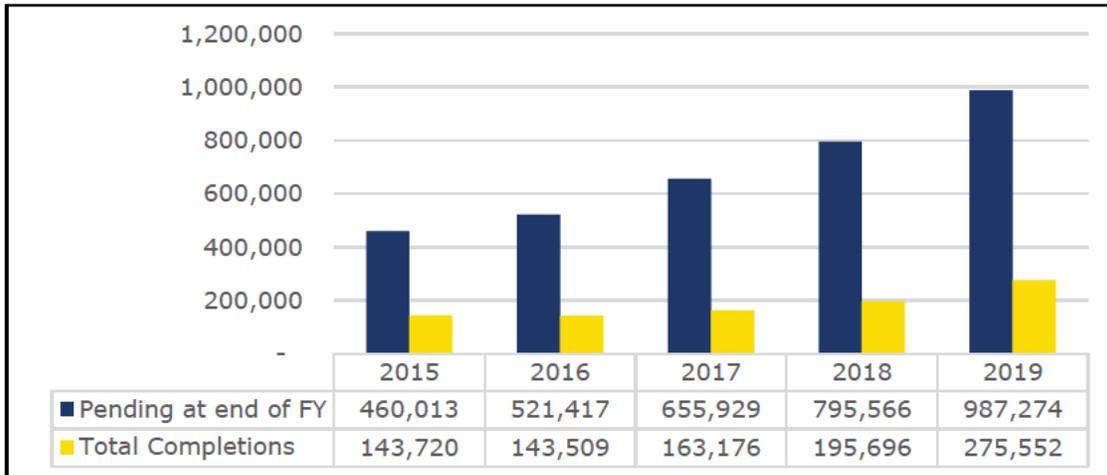
While a number of EOIR officials, including budget officials that had drafted operating plans to fully effectuate EOIR operations with FY 2019 funding, told us that they expressly advised the EOIR Director not to send out his March 6 email, the EOIR Director stated that he nevertheless sent both emails because he believed that his staff needed to know the reasons for making tough budget decisions. While the decision whether to send emails about a component’s budgetary situation is a discretionary one for the component head to make, we believe that any such emails should accurately describe the component’s financial situation. In this case, that did not occur, particularly with respect to the Director’s statement that EOIR was “considerably short of being able to fulfill all of [its] current operational needs.” In our opinion, readers of the March 6 email could reasonably have been left with the impression that EOIR was experiencing a budget shortfall, despite that in reality EOIR’s budget staff was taking action to ensure it could sustain mission-critical operations with its appropriation.

Concerns about Ability to Hire Additional IJ Teams

According to the Department’s FY 2019 Performance and Budget Summary for EOIR, the “largest challenge facing the immigration courts is the growing pending caseload.”⁹ EOIR reported that the number of new cases filed annually by DHS grew by 63 percent, from over 193,000 in 2015 to over 315,000 in 2018. EOIR also reported that, during that same period, the number of annual case adjudications by EOIR increased. EOIR adjudicated about 200,000 cases in FY 2018, or 36 percent more than it completed in FY 2015. This was supported, at least in part, by budget increases that allowed EOIR to hire more IJs. However, as shown in Figure 1, despite hearing and completing more cases, EOIR’s backlog grew from approximately 460,000 cases at the end of FY 2015 to nearly 800,000 cases at the end of FY 2018, a 73 percent increase during that 3-year period.

⁹ <https://www.justice.gov/jmd/page/file/1033216/download>

Figure 1
EOIR Case Completions and Pending Cases



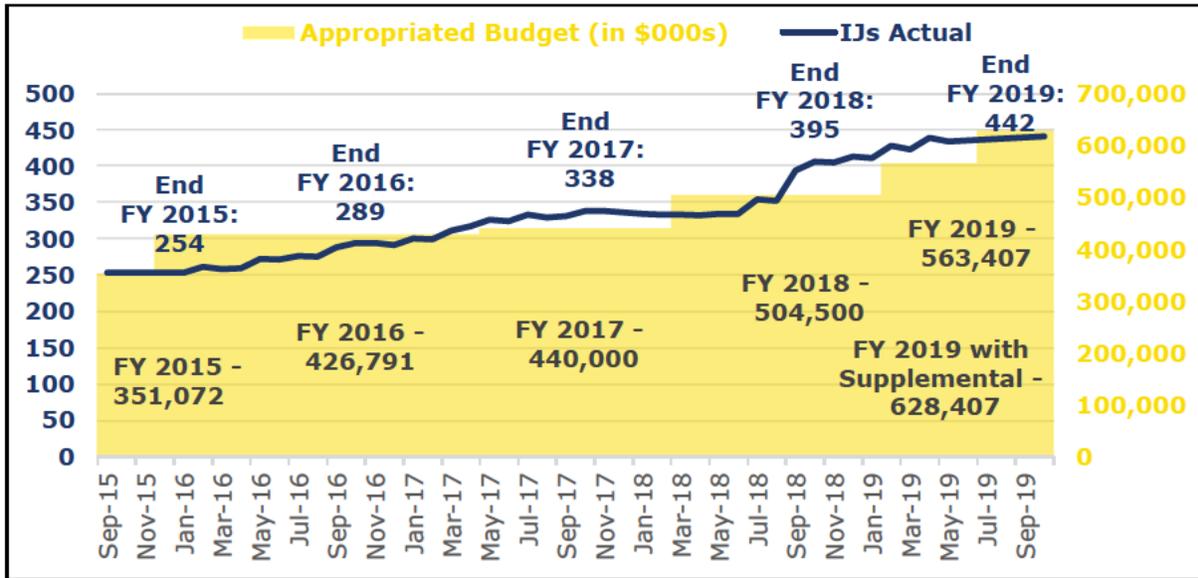
Source: EOIR

In an effort to address this increasing caseload, Congress has appropriated EOIR with additional monies so that EOIR can hire staff to support additional IJ teams.¹⁰ From the end of FY 2015, when EOIR had 254 IJs, to the end of FY 2018, when EOIR had 395 IJs, EOIR budgets increased by over \$150 million, or 44 percent.¹¹ Figure 2 shows how EOIR budget increases have been commensurate with its hiring of additional IJs.

¹⁰ In Senate Report 116-127, the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill, 2020, Congress expressed concerns with EOIR’s ability to answer budgetary questions to support the estimated costs for its IJ Team cost model. Based on these concerns, Congress directed DOJ to submit an IJ Team cost breakout in its required monthly hiring reports to the Committee. Congress further stated that EOIR shall include in its monthly hiring report any deviations from the standardized baseline for what constitutes an IJ Team cost by court location.

¹¹ EOIR’s FY 2020 budget request sought an additional 100 IJ teams.

Figure 2
EOIR Immigration Judge and Appropriated Budget Growth



Note: For FY 2019, EOIR received a supplemental budget of \$65 million in July 2019, which is incorporated in the budget amount received.

Source: EOIR and Appropriation Laws

EOIR’s FY 2019 budget request for \$563 million included an additional \$40 million in funding to hire employees for 75 additional IJ teams. Further, EOIR’s July 2019 supplemental appropriation of \$65 million provided \$45 million for EOIR to hire 30 additional IJ teams. An IJ team is comprised of one IJ and its support employees, including attorneys, paralegals and administrative staff. Ultimately, EOIR brought on board 47 additional IJs throughout FY 2019, far less than what would be necessary to lead the 105 total new IJ teams that its appropriated budget and supplemental appropriation supported.¹² In our opinion, it should have been readily apparent in February 2019, at the time of the EOIR Director’s email, that the challenge for EOIR in hiring sufficient additional IJs to the level provided for in EOIR’s budget request was going to be largely due to the suspension of EOIR’s hiring efforts for 5 months due to the lack of an appropriation, as well as the lengthy time period for recruiting and onboarding new IJs, and not because of other concerns raised in the Director’s emails regarding EOIR’s FY 2019 funding requirements and potential cutbacks.

¹² With the one-time supplemental appropriation, EOIR officials reported they were able to hire 27 IJs by September 2019, which was the end of the fiscal year. The officials explained that they had planned to hire 29 IJs, but 2 candidates did not complete onboarding before the end of the fiscal year. EOIR officials further stated that they used the supplemental funding to procure contract support for existing IJs and their teams.

Concerns about Interpreter Contract Fees

One of the primary concerns of the EOIR Director, when he learned in February 2019 that EOIR's FY 2019 appropriation was lower than he had anticipated, was whether EOIR would have the ability to fund the increasing cost of interpreter services. As described below, due to both rising contract rates and the growth of EOIR's caseload, the cost of interpreter services had increased over 300 percent, from approximately \$14 million in FY 2015 to just under \$60 million in FY 2018. As we discuss in this section, due to how EOIR tracked and processed interpreter contract services, as well as the communication challenges it experienced associated with this contract, EOIR leadership did not accurately forecast future interpreter contract costs for FY 2019.

EOIR's IJ teams heavily rely on interpreter services provided under a national contract awarded and administered by JMD since 2015. In late 2016, the interpreter contractor petitioned JMD to modify the award, citing significant changes in the market for interpreters that impacted the contractor's ability to meet EOIR needs and ensure that contract interpreters would meet the contract's 98-percent appearance rate.¹³ EOIR considers this contract critical, as much of its operations and adjudications depend on interpreter services. JMD Procurement Services Staff told us that procuring a new contract would have taken a significant amount of time and left EOIR without interpreter support, at least during the procurement period. Accordingly, JMD renegotiated a modified contract, effective September 2017, which increased both the price for each hour of interpreter services and the minimum hour requirement. According to JMD officials, the renegotiated rates were consistent with industry standards based on other JMD interpreter contracts.

EOIR submitted its budget request to JMD in June 2017, while JMD was still negotiating the new interpreter contract rates. While the FY 2019 request forecasted interpreter fees and associated costs rising from \$27 million in FY 2017 to over \$65 million in FY 2019, this request did not fully account for increased interpreter costs that ultimately resulted from: (1) EOIR's increasing caseload, (2) the anticipated significant rate increases in the renegotiated interpreter contract, and (3) the hiring of additional IJs to process additional cases. We found that these factors did, indeed, lead to an even more substantial increase in interpreter costs than EOIR had otherwise anticipated. At the time of the partial government shutdown in December 2018, EOIR leadership expected interpreter contract costs to rise from \$59 million in FY 2018 to \$80 million for FY 2019, based on the renegotiated interpreter contract and the increase in judges and caseloads,

¹³ The interpreter contractor must provide interpreters within EOIR hearing locations wherever required by the government, within the U.S. and its territories. All interpretation service requirements are expected to be filled, regardless of the timing of the court order. EOIR measures the appearance rate as the number of interpreters provided versus the number interpreters required by the Government.

which was approximately \$15 million more than what EOIR had factored into its FY 2019 budget request.¹⁴

Compounding this situation, soon after the shutdown, EOIR leadership stated that it received notice from staff that the prior month's interpreter fees totaled about \$9 million, which, if annualized, would approach about \$110 million. The \$110 million figure was 38 percent more than its previous estimate of \$80 million for FY 2019 and 86 percent more than what it spent for these services in FY 2018. EOIR's FY 2019 budget submission had not anticipated such a level of additional costs for interpreters, and therefore, EOIR officials stated that the \$563 million appropriation appeared to be even less adequate than what EOIR had anticipated in December 2018 to meet all of EOIR's budget priorities.

On March 6, 2019, the EOIR Director sent his second EOIR-wide email citing the \$110 million figure as one of the reasons for his concerns about a budget shortfall. We determined that, by March 8, an EOIR official had provided the revised \$110 million figure to both JMD and Congress. However, thirteen days later, on March 19, 2019, an EOIR employee emailed the EOIR Administration Office to advise the Office that the \$110 million estimate that was based on the \$9 million figure might not have been accurate. EOIR employees could neither explain to us how staff calculated the \$9 million nor provide to us invoices or other contemporaneous documentation to support the \$9 million figure. One EOIR official stated that once the \$9 million figure was cited, it took on "a life of its own" in an atmosphere of general confusion immediately following the partial federal government shutdown. On or about March 20, 2019, EOIR confirmed that the \$110 million figure was overstated and EOIR leadership alerted the JMD congressional liaison officer, who told us she subsequently notified congressional staff of the issue. The Director told us that he chose not to send a third EOIR-wide communication to correct any inaccuracies in his previous communications because he experienced what he considered a "backlash" after sending the previous emails.

We identified two issues that we believe sustained EOIR leadership's general confusion and misunderstanding over EOIR interpreter contract funding. The first issue involves how EOIR and JMD interfaced to process and track interpreter invoices. As end users of the interpreter contract, EOIR received and processed interpreter invoices through the Unified Financial Management System (UFMS). However, JMD certified and paid contractor invoices as the administering component of the contract. While EOIR tracked interpreter invoices and knew how much it had spent on interpreter costs at any one time, it did not track invoices to specific timeframes.¹⁵ In a billing environment in which EOIR received multiple invoices covering different periods of service, EOIR could not readily ascertain how

¹⁴ After the partial government shutdown ended, the EOIR Director and Chief of Staff briefed the Appropriations Committee regarding the FY 2019 appropriation. The document prepared by EOIR to guide this brief included this estimate of FY 2019 interpreter costs.

¹⁵ In response to an OIG request, EOIR-generated lists of obligations only reflected two obligations in FY 2018 to the contract provider, totaling \$9.8 million, and no contract provider obligations in FY 2019.

much it spent during a specific period. As a result, leadership was not able to make effective budgeting decisions following the partial federal government shutdown.

Second, the annual performance period for EOIR interpreter contracts starts on September 1 and ends on August 31. This causes the contract's performance period to span across federal fiscal years, which begin on October 1. Therefore, EOIR applies funds from more than one fiscal year to the contract. For example, EOIR obligated \$21 million in FY 2017 funds to support the interpreter contract that began on September 1, 2017. Similarly, EOIR obligated \$9.8 million in FY 2018 funds to the interpreter contract that took effect on September 1, 2018. Though we found permissible the practice of applying current year funds to contracts with performance periods predominantly in the following fiscal year, this practice increased the risk that EOIR budget planning personnel would inaccurately extrapolate or otherwise miscalculate subsequent FY funding needs.¹⁶

We determined that this hindered the ability of EOIR leadership to forecast and communicate accurate budget and financial needs. Based on itemized lists of task order obligations and disbursements provided by EOIR as well as data in UFMS for the performance year ending August 30, 2019, EOIR had obligated \$74.4 million on the interpreter contract, or approximately 33 percent less than the incorrectly derived \$110 million and in line with the original \$80 million estimate.

In FY 2019, JMD Finance Staff, Offices, Boards, and Divisions Outreach & Support (OOS) provided onsite support to EOIR and the Office of Administration. As part of its support, OOS subsequently assessed EOIR's current financial management processes, assisted in the validation and closeout of open financial items, and recommended process improvements. In December 2019, OOS provided seven policy and procedure recommendations to EOIR to improve efficiency and effectiveness within the Office of Administration. As a result of these recommendations, EOIR reported that an official has been tasked with tracking all interpreter contract invoices and expenses and its Office of Administration has revised budget and cost estimating policies.

Stronger controls surrounding EOIR's use of information will enhance its ability to plan for and report its financial management needs. It is the responsibility of EOIR leadership to maintain an accurate understanding of funds in order to accurately forecast and oversee their use.¹⁷ JMD officials told us that they can configure UFMS to produce enhanced budget monitoring reports that report real-time interpreter expenditure information to EOIR decision makers. EOIR's ongoing work with JMD to improve interpreter contract oversight presents an opportunity for EOIR to obtain such enhanced budget monitoring reports and, thus,

¹⁶ Statutory exceptions to the bona fide needs rule (31 U.S.C. § 1502) allow an agency to use current year funds for contracts beginning in one fiscal year and ending in the next fiscal year for specific situations. See 41 U.S.C. § 3902 (procurement contracts for severable services not to exceed 1 year).

¹⁷ Principle 13.04 of the *Federal Internal Controls Standards* requires federal agencies to obtain relevant data from reliable internal and external sources in a timely manner based on the identified information requirements.

gauge interpreter costs in real-time. Given that the erroneous extrapolation of funds adversely affected EOIR leadership’s ability to communicate budget needs, we recommend that EOIR work with JMD to: (a) develop a process to compile and monitor the status of interpreter contract obligations and (b) provide EOIR leadership, in coordination with its Office of Administration, the tools to acquire and access real-time, accurate cost and spending estimates.

EOIR Office Space Renovation Costs

We reviewed EOIR expenditures in connection with occupying new office space for its headquarters office in Falls Church, Virginia. We did not identify concerns with these expenditures.

In 2015, EOIR’s long-term lease for its Falls Church, Virginia, headquarters office space ended and the General Services Administration (GSA) solicited, negotiated, and ultimately awarded a new lease for EOIR office space in the same building that it occupied under the prior lease. As part of the new lease, the lessor agreed to change the floor plan to meet new GSA specifications. In addition, EOIR had to pay for certain tenant improvements across its nine floors of office space. Figure 3 shows what EOIR reported spending on these renovations.

Figure 3
EOIR Expenditures for Renovations

Category	Cost (\$)
Tenant Improvements. These costs include additional walls, painting, carpet tiles, and lighting and electrical outlets for nine floors of office space	\$ 5,800,000
Furniture. This includes office cubicle systems and modular conference tables for several conference rooms with outlet plugs.	2,428,870
Moves. Associated with using swing space across multiple floors.	470,482
Total	\$ 8,699,352

Source: EOIR

We determined that the funding for the floor plan changes was obligated prior to FY 2019, and thus beyond the scope of this audit.¹⁸ Nonetheless, EOIR provided a walk-through of the new office space, including several conference rooms, offices, cubicles, as well as the Director’s office. EOIR officials reported reducing anticipated furniture costs by \$2 million by reusing desks, credenzas, file cabinets, and chairs for more than 350 offices.

We also considered the issue of whether EOIR exceeded a statutory limit on renovating the Director’s office space. An agency may not spend more than \$5,000 to furnish, redecorate, or make improvements to the office of an agency or

¹⁸ EOIR and GSA signed a reimbursable work agreement obligating the total amount in 2017 but GSA typically does not expend the money until completion of the project, which occurred in July 2019.

department head who is a presidential appointee.¹⁹ However, EOIR officials told us that JMD confirmed that this and other similar limits are not applicable to the EOIR Director, who is a career member of the Senior Executive Service and appointed by the Attorney General, and thus not a presidential appointee.

¹⁹ This established limit was reiterated by Pub. L. No. 116-6 (2019), Section 710 (“During the period in which the head of any department or agency, or any other officer or civilian employee of the Federal Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is transmitted to the Committees on Appropriations of the House of Representatives and the Senate. For the purposes of this section, the term ‘office’ shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.”)

CONCLUSIONS AND RECOMMENDATION

We identified weaknesses in EOIR's budget planning process, including EOIR leadership failing to coordinate effectively with its budget staff and JMD. EOIR's need to address the increase in immigration case referrals and growing backlog of cases by hiring additional IJ teams, and general confusion and miscommunication regarding renegotiated interpreter costs contributed to the EOIR Director's decision to announce, via EOIR-wide emails, plans to reduce or temporarily suspend certain FY 2019 initiatives. While a number of EOIR officials—including budget officials that had drafted operating plans to effectuate EOIR operations with FY 2019 funding—stated that they expressly advised the EOIR Director against sending out his March 6, 2019, email announcing EOIR-wide budget cuts, the EOIR Director stated that he nevertheless sent this email because he believed that his staff needed to know the reasons for making tough budget decisions. The EOIR Director emphasized to us that his intent was to explain his decisions solely to an EOIR audience; however, he conceded that his communication could have been, and ultimately was, understood by those outside of EOIR as EOIR experiencing a budget shortfall.

EOIR leadership's lack of knowledge regarding the status of interpreter contract funds subsequently hindered its ability to communicate accurate budget and financial needs. The Director told us that he chose not to send a third EOIR-wide communication to correct any inaccuracies in his previous communications because he experienced what he considered a "backlash" after sending the previous emails.

We determined that EOIR erroneously estimated its yearly interpreter costs by extrapolating a single, unusually high monthly interpreter expense, which was not supported by invoices or other contemporaneous evidence. We further determined that this erroneous estimate adversely affected EOIR leadership's communication of accurate budget needs to Department and congressional decision makers. Based on these findings, we recommend that EOIR:

1. Work with JMD to: (a) develop a process to compile and monitor the status of interpreter contract obligations and (b) provide EOIR leadership, in coordination with its Office of Administration, the tools to acquire and access to real-time, accurate cost and spending estimates.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of this audit was to assess EOIR's efforts to identify effectively its funding needs and execute its budget in light of issues that arose following EOIR's receipt of its fiscal year (FY) 2019 appropriation.

Scope and Methodology

The scope of our audit covered Fiscal Year (FY) 2019, as well as the budget formulation phase that began 2 years prior in the spring of 2017. To achieve our audit objective, we interviewed several Department-level and component-specific budget officials and executives, including the EOIR Director, regarding how they set FY 2019 financial policies and procedures, reviewed documents pertaining to recent financial priorities and decisions, and toured EOIR office space in Falls Church, Virginia.

We reviewed EOIR's operational and financial planning for FY 2019, as well as policies and procedures related to budget formulation and execution. We also reviewed EOIR's interpreter contract expenditures; its solicitation, acquisition, and payment interactions carried out with JMD; as well as policies and procedures related to invoice and obligation tracking.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

In this audit, we performed testing, as appropriate, of internal controls significant within the context of our audit objective. A deficiency in internal control design exists when a necessary control is missing or is not properly designed so that even if the control operates as designed, the control objective would not be met. A deficiency in implementation exists when a control is properly designed but not implemented correctly in the internal control system. A deficiency in operating effectiveness exists when a properly designed control does not operate as designed

or the person performing the control does not have the necessary competence or authority to perform the control effectively.²⁰

As noted in the Audit Results section of this report, we identified deficiencies in EOIR's internal controls that are significant within the context of the audit objective and based upon the audit work performed that we believe adversely affect EOIR's ability to accurately and expediently ascertain its obligations and operating expenditures. We concluded that this deficiency creates the risk of EOIR operating under inaccurate and incorrect financial figures, which could impede its operations. Although we note this deficiency, we do not believe it is a material weakness.

Computer-Processed Data

During our audit, we obtained information from the Unified Financial Management System. We did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources.

²⁰ Our evaluation of EOIR's internal controls was not made for the purpose of providing assurance on its internal control structure as a whole. EOIR's management is responsible for the establishment and maintenance of internal controls. Because we are not expressing an opinion on EOIR's internal control structure as a whole, this statement is intended solely for the information and use of EOIR. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

EOIR DIRECTOR'S FEBRUARY 2019 EMAIL

From: EOIR Director (EOIR) <EOIR.Director@EOIR.USDOJ.GOV>

Sent: Friday, February 15, 2019 2:56 PM

To: All of EOIR <All_of_EOIR@EOIR.USDOJ.GOV>

Subject: FY 2019 Appropriations

EOIR Colleagues:

As you know, William Barr was confirmed by the Senate and sworn in yesterday as the new Attorney General. Under his leadership, EOIR expects to continue to build on its recent successes, including hiring more immigration judges and completing more cases in a timely manner consistent with due process.

As you also know, the President is expected to sign a bill providing for the Department's appropriations for FY 19 and removing the possibility of another shutdown. The bill also includes a pay increase for many federal employees. Unfortunately, due to the nature and timing of the budget process, EOIR's appropriation does not fully address all of its current operational needs. Consequently, there will be difficult financial decisions to be made throughout the remainder of this fiscal year in order to ensure that our priorities of hiring more immigration judges, addressing the backlog, and developing ECAS are met. Although you may be understandably frustrated by some of these decisions, we will endeavor to minimize the adverse effects of them as much as we possibly can.

Finally, 2019 has been a challenging year so far for EOIR, but I want to reiterate how proud I am of the resiliency and professionalism our employees demonstrate every day regardless of the challenges we face. As Attorney General Barr noted yesterday, "[t]he Department of Justice remains a place where talented and dedicated public servants work tirelessly on behalf of the American people." Nowhere is that more true than at EOIR, and I hope that you are also proud of your contributions to the agency and of the important work you do every day in fulfilling its mission.

As you enjoy the upcoming, and well-deserved, long holiday weekend, I hope that you will take a few moments simply to decompress, relax, and enjoy the company of friends and loved ones. Thank you again for all of your hard work.

James McHenry
Director

EOIR DIRECTOR'S MARCH 2019 EMAIL

From: EOIR Director (EOIR) <EOIR.Director@EOIR.USDOJ.GOV>
Sent: Wednesday, March 06, 2019 11:06 AM
To: All of EOIR <All_of_EOIR@EOIR.USDOJ.GOV>
Subject: FY 19 Budget

EOIR Colleagues:

As I mentioned in my message to you a few weeks ago regarding EOIR's appropriation, the nature and timing of the FY 2019 budget process has left us considerably short of being able to fulfill all of our current operational needs. The FY 2019 request had to be submitted prior to the FY 2018 enactment, it did not adequately account for significant cost increases, and it could not be changed once those costs became apparent. Although cost increases associated with increased transcription, data analytics, and other operational necessities are part of the story, as many of you know, the most dramatic increase has been in interpreter costs. In FY 2017, interpreter costs were approximately \$17 million. In FY 2018, they increased to almost \$60 million, and in FY 2019, they are expected to approach \$110 million. On a per-IJ basis, this translates to a cost increase from roughly \$50,000 per immigration judge in FY 2017 to nearly \$225,000 per immigration judge this fiscal year.

This challenging budget situation has led us to a position where difficult financial decisions need to be made. Accordingly, I am writing to you today to discuss some of those difficult decisions.

Unfortunately, due to the current budget situation, we will have to forgo an in-person Immigration Judge Training Conference this year. I know that many of you enjoy this time not only to update yourselves on the law and best practices, but also to interact with and learn from your colleagues. Although we cannot afford the \$1 million cost for the conference as we have held it in the past, we are looking at alternatives for training that will meet our needs and be more cost effective. We will provide you additional information as it is available.

Additionally, given our current financial situation, we do not expect to be able to continue to hire and onboard staff at the pace we have previously set, and you may see some delays as we carefully reevaluate vacancies and the priority and urgency with which they need to be filled to best utilize our remaining budget dollars. This will include immigration judges, and at this time we do not anticipate being able to bring on a new class after the one scheduled for April enters on duty. Further, budgetary constraints will affect the implementation of the court staffing model as well as the hiring of roughly 250 attorneys that we need.

An additional budget issue concerns the rollout of ECAS. Due to the delay in receiving our appropriation this year, we did not have funds available to procure all the goods and services necessary to put us in a position to begin rollout on our original timetable. As a result, the nationwide rollout of ECAS will not be able to begin until at least the fall of this calendar year.

Other delays we can expect may involve some of the EOIR projects to build or lease new court space, which may potentially delay completion of certain projects.

We are also making some hard decisions regarding certain contracts and their renewal. For example, EOIR has, for several years, worked with contract staff to support the analytics performed by the Planning, Analysis, and Statistics Division. The period of performance for this particular task order on the contract concludes at the end of March, and we will not be executing a new task order at this time. This means that EOIR will not have updated data from many of the models or analyses that this team developed, and, thus, we may not be able to provide managers and staff with some of the information we have been able to provide in the past.

After almost two years of rapid growth, I know that these decisions are disappointing, particularly given the expected benefits of both the training conference and a robust ECAS system. The news is not all disheartening, however, and I wanted to also take this opportunity to share with you some of the positive news that we have seen regarding hiring in the field. As you know, over the last year we have engaged in an unprecedented hiring effort in the field. Since October 1, 2018, we have processed nearly 400 personnel actions for OCIJ field staff, including promotions for current staff, new hires, and selections of soon-to-be employees. This is in addition to the 174 immigration judges we have hired over the last two years, nearly 50 of which have entered on duty this fiscal year. All of this hiring represents a significant level of hard work on the part of OCIJ and the Office of Administration.

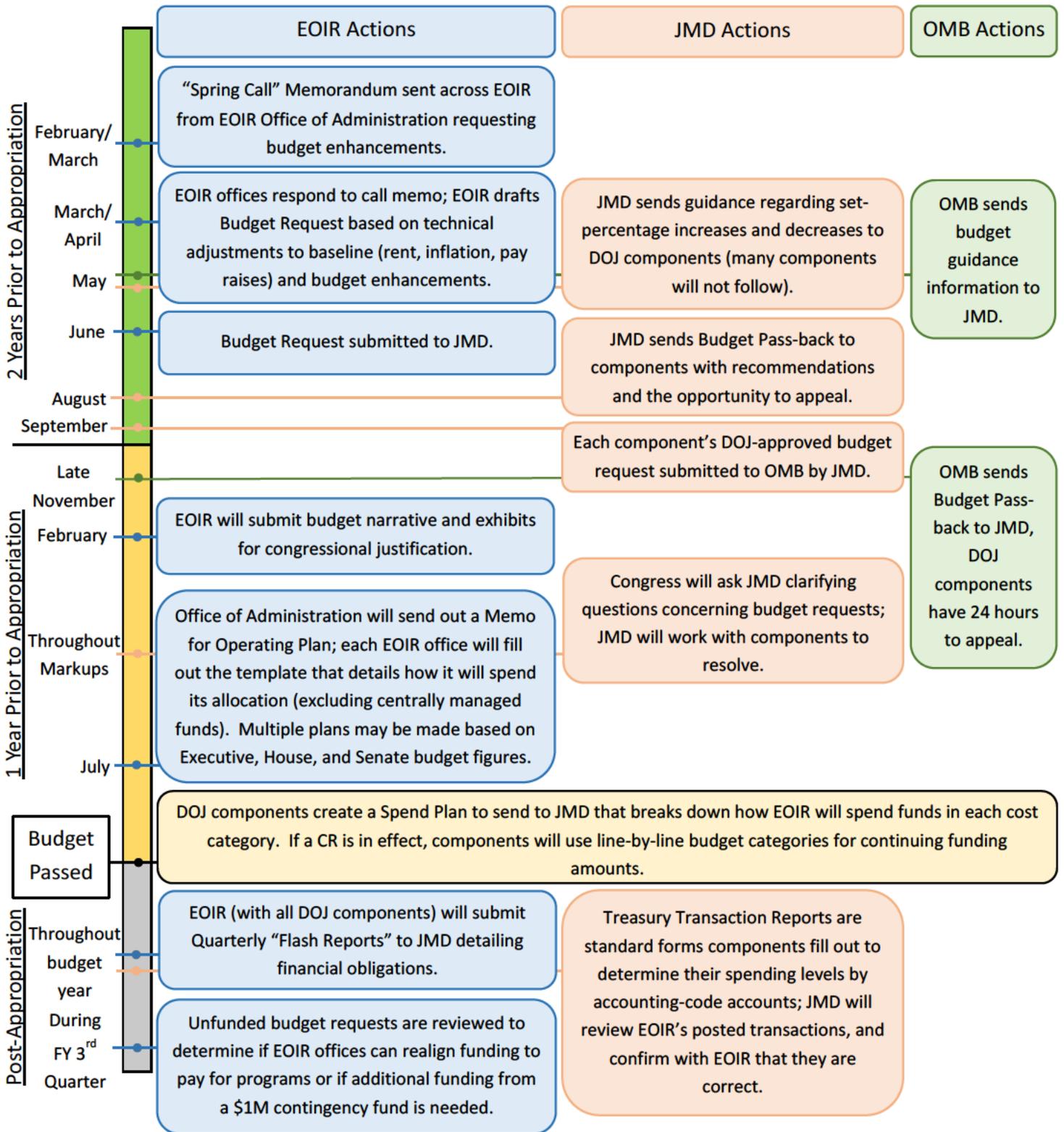
Finally, the formal FY 2020 budget request will be rolled out in the coming weeks, and we have conveyed our requests and our needs to the Department. Nevertheless, we are cognizant that we are not the only agency with budgetary concerns, and the Department must balance a number of competing interests in the formal budget submission.

We are doing our best at headquarters to ensure that our funds are spent in the most fiscally responsible manner possible, while consistently meeting the needs and mission of the agency. Thank you for your consistent hard work for the agency and for your patience and understanding as we work through this process. The work you put in each day will continue to make EOIR a better place to work, regardless of budgetary situation.

Sincerely,

James McHenry
Director

EOIR BUDGET PROCESS TIMELINE



Source: EOIR officials and OIG analysis

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW'S RESPONSE
TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

May 19, 2020

Mr. Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
150 M Street, NW, 12th Floor
Washington, D.C. 20530

Re: Audit of the Executive Office for Immigration Review's (EOIR's) Fiscal Year
(FY) 2019 Financial Management Practices

Dear Mr. Malmstrom:

We are writing to thank you for the professional and careful audit work performed by staff from the Office of the Inspector General (OIG) during the recent audit of the FY 2019 financial management practices at the EOIR, and to address the draft audit report's recommendation. We appreciate the role that OIG plays in the audit process and the efforts of your staff to work with EOIR to understand and improve upon our processes. We also appreciate the opportunity to review the draft audit report and to respond to the recommendation.

The objective of this audit was to assess EOIR's efforts to identify effectively its funding needs and execute its budget in light of issues that arose following EOIR's receipt of its FY 2019 appropriation. We understand that OIG found weaknesses in EOIR's budget planning process for FY 2019, including confirmation that EOIR's FY 2019 budget request—upon which its FY 2019 appropriation was ultimately based—was insufficient to cover EOIR's increased interpreter costs. We are pleased to say that EOIR had already identified and begun to address those weaknesses prior to OIG's audit and that EOIR's FY 2020 budget request reflected a more accurate assessment of EOIR's operational needs. We also expect that future budget requests will more accurately reflect EOIR's needs. Overall, EOIR is in a much stronger place now than it was in spring 2017 when its FY 2019 budget request was prepared.

Letter to Mr. Jason R. Malmstrom, OIG
Page Two

EOIR concurs with the recommendation described in the draft audit report, and we have described below the corrective actions we plan to take and have taken to address the recommendations.

RECOMMENDATION: Work with JMD [Justice Management Division] to: (a) develop a process to compile and monitor the status of interpreter contract obligations and (b) provide EOIR leadership, in coordination with its Office of Administration, the tools to acquire and access to real-time, accurate cost and spending estimates.

RESPONSE: Regarding topic (a), EOIR has updated internal processes so as to review invoices with more immediacy within the Office of Administration (OA), Office of Budget and Financial Management (OBFM), rather than relying on non-budget staff within the Office of the Chief Immigration Judge (OCIJ) to perform an initial analysis. This change allows for more rapid and accurate involvement in determining actual outlays. Previously, OBFM staff relied on the subject matter experts within OCIJ to project interpreter contract costs. The challenges associated with the interpreter cost projection during FY 2019 clarified for OBFM the need to move this process from the office with expertise in the program, to the office with expertise with financial processes and projections. The OBFM staff have established a new process for tracking budget within the budget office, rather than within the OCIJ unit responsible for managing interpreters where the tracking was previously housed.

The OBFM team have also developed a more robust process for predicting future interpretation costs with greater accuracy. These processes are informing regular data sharing efforts with JMD concerning costs, both those incurred and those expected in the future, surrounding the interpretation contract. Specifically, the OBFM team now sends a monthly report to JMD on interpreter costs, both actuals and projections so as to ensure that all of the various offices involved in the contract and budget process are aware of the status of expenditures.

Concerning topic (b), OA is in frequent communication with JMD regarding reporting capabilities, requirements, and potential future needs. At this time, sufficient reporting capability exists within the Unified Financial Management System (UFMS) to run queries as needed to analyze the data within UFMS. Where challenges exist in forecasting relates largely to late submission of invoices from vendors, particular interpreters. EOIR is addressing this challenge by doing an initial estimate of costs based on interpretation orders placed, rather than waiting to determine those interpretation orders filled. OA is also working to consistently improve communication with EOIR leadership. OA offers briefings on a quarterly basis to the Acting Deputy Director on the status of agency expenditures and obligations, and OA works closely with the agency Chief Management Officer, a new position within the Office of the Director, to craft future budget requests, respond to questions from Congressional Appropriators and other interested and appropriate parties. The EOIR Director is advised regarding agency budget on an as needed basis.

Letter to Mr. Jason R. Malmstrom, OIG
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EOIR is committed to maintaining an accurate and robust financial management system so as to ensure appropriate and fiscally prudent financial decisions are made, subject to the parameters of EOIR's authorized appropriation. This audit supports the changes and improvements that EOIR made during and immediately following FY 2019, and it encourages continued growth and advancement going forward. We appreciate your efforts to aid EOIR in determining best practices to strengthen our program. Should you or your staff require further information, please do not hesitate to contact us.

Sincerely,

**KATHRYN
SHEEHEY**  Digitally signed by
KATHRYN SHEEHEY
Date: 2020.05.19
10:19:46 -04'00'

Kathryn D. Sheehey
Chief Management Officer

**OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY
OF ACTIONS NECESSARY TO CLOSE THE REPORT**

The OIG provided a draft of this audit report to EOIR. We incorporated EOIR's response in Appendix 5 of this final report. In response to our audit report, EOIR concurred with our recommendation and discussed the actions it has taken and plans to implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of the actions necessary to close the report.

Recommendation for EOIR:

- 1. Work with JMD to: (a) develop a process to compile and monitor the status of interpreter contract obligations and (b) provide EOIR leadership, in coordination with its Office of Administration, the tools to acquire and access to real-time, accurate cost and spending estimates.**

Resolved. EOIR concurred with our recommendation. Concerning subpart (a) of this recommendation, EOIR stated that it has updated internal processes in order to review invoices with more immediacy within the Office of Administration, Office of Budget and Financial Management. It stated that this change allows for more rapid and accurate involvement in determining actual outlays. Additionally, EOIR stated that it developed more robust processes for predicting future interpretation costs with greater accuracy, which informs regular data sharing efforts with JMD concerning costs, both those incurred and those expected in the future, surrounding the interpretation contract. Concerning subpart (b) of this recommendation, EOIR stated that its Office of Administration is in frequent communication with JMD and that sufficient reporting capabilities exist within the Unified Financial Management System to run queries as needed to analyze the data within this system. EOIR further stated that its Office of Administration offers quarterly briefings on the status of agency expenditures and obligations to its Acting Deputy Director, and is working closely with the agency Chief Management Officer, a new position within its Office of the Director, to craft future budget requests, as well as respond to questions from Congressional Appropriators and other interested and appropriate parties.

Robust communication between EOIR and JMD, as well as within EOIR and its leadership, is essential for ensuring that agency priorities and critical operations are properly budgeted and accounted for. This recommendation can be closed when EOIR provides evidence of: (1) its collaboration with JMD regarding the monitoring and analysis of financial obligations, including documentation that ascertains whether JMD can improve UFMS' reporting capabilities any further to suit EOIR's financial monitoring needs, and (2) its

Office of Administration's quarterly briefings detailing the status of agency expenditures and obligations to its Acting Deputy Director.



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