

**APPENDIX 2 - ELECTRONIC PUBLIC ACCESS
PROGRAM**

GENERAL STATEMENT AND INFORMATION

The Electronic Public Access (EPA) program provides electronic public access to court information in accordance with federal statutes, judiciary policies, and user needs. The internet-based Public Access to Court Electronic Records (PACER) service provides courts, litigants, and the public access to court dockets, case reports, and the more than one billion documents filed with the courts through the Case Management/Electronic Case Files (CM/ECF) system. PACER is a portal to CM/ECF, making both systems integral to effective public access. In fiscal year (FY) 2025 alone, PACER processed over 621 million requests for case information.

Currently, there are more than 5.3 million PACER user accounts; 12.0 percent of these accounts were active in FY 2025. In addition to court staff, users include members of the bar; city, state, and federal employees; private companies; nonprofit organizations; academic researchers; members of the media; and the general public. During FY 2025, the judiciary's PACER Service Center established new PACER accounts and responded to more than 330,000 telephone and email inquiries.

Pursuant to statute, the EPA program is funded through user fees set by the Judicial Conference of the United States. Fees are deposited in the Judiciary Information Technology Fund (JITF) as an offsetting collection to reimburse the fund for the cost of the judiciary's EPA program. The components of this program are listed in Table A-2.1 on page 2.8 and include activities such as operations of the PACER Service Center; electronic bankruptcy noticing; the telecommunications, replication, archiving, development, and maintenance requirements associated with the current CM/ECF systems and PACER services; and the ongoing modernization of CM/ECF and PACER.

The judiciary continues to improve electronic public access to its records, with ongoing initiatives to broaden public access, including:

- *Improving Search Functionality.* To address one of the primary issues identified through the 2021 PACER User Assessment, the Administrative Office of the U.S. Courts (AO) has undertaken a project, more fully described below in the CM/ECF Modernization section, to greatly improve the search functionality in PACER. The goal of this project is to provide a modern, intuitive, user-friendly search interface, allowing the public user to easily search across the federal judiciary for near real-time court data, documents, and docket entries. This enhanced and improved search functionality will be delivered as part of the modernized case management system in development.
- *Increasing Free Access to Court Records.* To make court documents free for more users, no fee is owed for electronic access to

court data or audio files via PACER until an account holder accrues charges of more than \$30 in a quarterly billing cycle. In FY 2025, 85.0 percent of active PACER users accessed court records for free as a result of the fee waiver. Also, in 2022, the Judicial Conference determined to make all searches free of charge for all noncommercial users of any future new modernized case management, electronic filing, and public access systems implemented by the judiciary. That change will be implemented with the release of the new PACER interface being developed in the modernized case management system and will go into effect as it is rolled out to the courts.

- *Continued Engagement of the Electronic Public Access Public User Group.* In 2020, the AO established the EPA Public User Group to collect advice and provide feedback on ways to improve PACER and related public access services. The Group is composed of 12 individuals who represent the legal sector, media, academia, government agencies, and other entities that regularly use PACER. The second iteration of the EPA Public User Group, which concluded its term in December 2024, provided detailed feedback via individual interviews about their experiences with the current PACER search functionality and the potential features that would be valuable in a new search system. The User Group assisted with refining requirements for the new system, including the case number format to be displayed and the Case Preview feature for each court type. Additionally, the EPA Public User Group has been responsible for some public access services improvements, such as enhancing functionality of the PACER Case Locator, resolving an issue with viewing PDFs on iPads in a previous version of District CM/ECF, and adding a pro se user page on the PACER website.

The AO reconstituted the EPA Public User Group with 12 new members for a two-year term beginning January 2025. The AO is engaging the User Group to assist with developing, refining, and validating requirements for the new search functionality in the modernized case management system, referenced above and discussed more fully in the next section, and to examine additional ways to improve public access services.

SIGNIFICANT ISSUES FOR FISCAL YEAR 2027

Case Management/Electronic Case Files Modernization

CM/ECF, first introduced in early 2001, revolutionized the way federal courts and the bar manage cases and documents. Far more than just a repository of documents, CM/ECF is the software product that manages the operations of the courts in the federal judiciary, except the Supreme Court. It manages documents, deadlines, hearing schedules, and trials. It handles the docketing for appellate, district, bankruptcy, and other specialized courts in the judiciary, and it processes transactions at every step of a case, from collecting filing fees, to determining deadlines for motions and sharing vital information among litigants, judges, and court staff.

In 2014, the judiciary began implementation of its first effort to update and improve CM/ECF through the Next Generation (NextGen) CM/ECF project. As of September 2022, all courts transitioned to NextGen CM/ECF. NextGen CM/ECF remains in “lights on” mode where resources will be used only to continue its secure operation, with changes or improvements being limited to security vulnerability fixes as well as mandatory changes required by new laws.

While significant improvements were made to CM/ECF over the past decade through the development and implementation of NextGen CM/ECF, the judiciary is committed to modernizing the system for the future. In 2021, it partnered with 18F, then a government consultancy in the General Services Administration’s Federal Acquisition Service, to assess the status of CM/ECF and develop a path forward for modernizing the system. 18F delivered its final report on this work in March 2022. The judiciary agreed with 18F’s assessment and recommendations, most notably a recommendation to replace the existing CM/ECF with a new, modernized cloud-based system. While 18F recommended building “a new, open-source system with modern technology and architecture,” the AO believed it was also important to explore commercial off-the-shelf products, which might allow the judiciary to implement a new case management and electronic case filing system much more quickly than if it built one from scratch. The AO conducted market research by gathering feedback from multiple sources, including user representatives, and shared the results of the findings in December 2022.

To reduce inherent risks associated with the CM/ECF modernization effort, also known as Case Management Modernization (CMM), the AO conducted a proof of concept/prototype phase and developed working software to help identify important considerations and test proposed approaches. The prototypes were developed using modern cloud-based system architecture and security, and operational efficiency considerations were fully integrated into every aspect of design and development. Product development teams consisted of

AO staff, contracted developers, and court-based user representatives, which reduced communication gaps, expedited vendor onboarding, and provided direct user input and feedback into all design decisions.

One of the key 18F recommendations was to engage with “hands-on-keyboard” users to guide decisions about the design and function of the modernized case management system. More than 235 volunteer User Representatives drawn from various federal court types, sizes, and locations have been involved to date. User Representatives played key roles in the market research, Unified Search, and Proof of Concept activities described above, as well as conducted a comprehensive analysis of all the complex case management tasks routinely performed in their courts. Additionally, the members of the EPA Public User Group are engaged in refining requirements for new features and enhancements to be provided by the new PACER interface being developed in the modernized case management system. This user-centered design is a critical part of ensuring the effectiveness and adoption of the new system.

Although CMM was initially funded solely via PACER fee revenue, based on a court ruling¹, the entire cost of the modernized system cannot be funded solely via PACER fee revenue. Expenses for elements of CMM that would be developed exclusively for internal judiciary use, i.e., expenses that have no nexus to the public’s ability to access information on the federal courts’ docketing system, cannot be funded with PACER fee revenue. Based on an initial judiciary review, some CMM requirements have an insufficient nexus to public access and require alternative funding. In FY 2026, the judiciary sought and received \$10.0 million of appropriated funding to cover those non-PACER funded CMM requirements. For FY 2027, the judiciary is once again requesting \$10.0 million in the COADCOJS courts’ Salaries and Expenses account to cover these CMM requirements.

In light of the acute and persistent cyber risk to CM/ECF, the CMM project needs to be accelerated. The judiciary is actively revisiting the overall CMM project plan to provide for the iterative rollout of a new case management system beginning in or before July 2027, with an initial focus on highest risk areas. Delivery of the first CMM products to pilot courts will begin in FY 2026 and will continue in increments through FY 2027.

Obligation of Funds from Electronic Public Access Collections

EPA collections (i.e., PACER fees) fund operations, maintenance, and improvements in EPA programs. Access to case information via PACER remains at \$0.10 per page, and the cost to access a single document (regardless of length) is capped at \$3, the equivalent of 30 pages. As shown below in Table A-2.1, revenue is projected to total approximately \$142.0 million in both FY 2026 and FY 2027. The

¹ *National Veterans Legal Services Program v. United States*, 291 F. Supp. 3d 123 (D.D.C. 2018), *aff’d and remanded*, 968 F.3d 1340 (Fed. Cir. 2020).

FY 2026 revenue is supplemented by \$166.6 million in carryforward funding from FY 2025 and \$15.0 million in anticipated prior year recoveries. Obligations are projected to total \$246.8 million in FY 2026 and \$233.8 million in FY 2027.

The obligation of EPA program collections has been impacted in recent fiscal years by a 2018 ruling of the District Court for the District of Columbia in *National Veterans Legal Services Corp. v. United States*. In its ruling, which was affirmed by the Court of Appeals for the Federal Circuit in 2020, the district court upheld the judiciary's use of EPA program funds for the vast majority of its public access programs, but determined that the use of EPA program funds for some other services was impermissible.² The parties subsequently settled the case, with the United States agreeing to pay the plaintiffs \$125.0 million. The District Court approved the settlement in March 2024, but an individual who objected to the settlement filed an appeal, which remains pending. No settlement payouts will occur until the appeal is resolved. The settlement does not impact the judiciary's FY 2027 budget request or future budget requests,³ and it does not impact the judiciary's cost estimate for implementation of the Open Courts Act, CM/ECF modernization, or other budget initiatives of the EPA program.

The planned FY 2026 EPA program requirements and projected resources are shown below in Table A-2.1. In FY 2026, requirements increased most in CMM compared to FY 2025 actuals. Increased costs across the program in FY 2026 are due to several factors, including: the incorporation of necessary security updates, tools, and protocols; other changes associated with the system's infrastructure, including cloud hosting; funding needed for the modernization of CM/ECF and PACER; and slippage for requirements not able to be executed in FY 2025 due to contractual delays, but still required in FY 2026.

In FY 2027, requirements total approximately \$233.8 million, with \$145.4 million needed to maintain current critical public access services and \$88.5 million required exclusively for the modernization project.⁴

² Beginning in FY 2018, the judiciary stopped funding the impermissible activities through the EPA program, contributing, in part, to the accumulation of the unusually high unobligated EPA balances referenced on page 2.6. However, these resources are projected to be depleted by the increase in costs for existing requirements and additional requirements for the modernization project. The judiciary will continue to monitor the balance of revenue and requirements in the EPA program and will keep the Appropriations Committees apprised of any necessary changes in policy or practice.

³ The costs of the settlement will be paid from the Department of the Treasury's Judgment Fund, not judiciary appropriations.

⁴ Due to the Agile approach being used for development of the modernized CM/ECF and PACER system, requirement costs for the modernization project will continue to be refined as the project progresses.

Table A-2.1 Utilization and Financing of EPA Receipts and Prior Year Recoveries (\$000)

Program Category	FY 2025 Actual	FY 2026 Plan	FY 2027 Request
Public Access Services ¹	21,216	22,944	22,906
CM/ECF Development, Operations, and Maintenance	49,785	54,299	60,361
Modernization of CM/ECF (CMM)	27,321	98,929	88,453
Communications Infrastructure, Services, and Security	56,602	51,883	47,047
Electronic Bankruptcy Noticing	5,143	5,143	5,021
Allotments to the Courts	7,782	13,561	10,037
Prior Year Obligation Adjustments	(214)	-	-
TOTAL OBLIGATIONS	167,636	246,759	233,825
Unobligated Balance, Start of Year	161,987	166,584	76,825
Receipts	154,140	142,000	142,000
Prior Year Recoveries	18,092	15,000	15,000
Unobligated Balance, End of Year	(166,584)	(76,825)	(0)

¹ EPA revenues are deposited in the JITF. See chapter 11 for more information on the JITF.