



Electronic Case Management in Federal Administrative Adjudication

Committee on Administration and Management

Proposed Recommendation for Committee | March 28, 2018

1 Courts and adjudicative agencies have increasingly come to rely on computing
2 technology to manage various aspects of their adjudicative activities. Some of these federal
3 agencies have adopted and implemented a form of electronic management for their casework, but
4 others have not done so. Although practical considerations or resource constraints may weigh
5 against the use of an electronic case management system (“eCMS”) in certain instances, agencies
6 can often realize considerable efficiencies and reap other benefits by adopting such a system.

Benefits of an Electronic Case Management System

8 As referred to here, an electronic case management system includes the functions of a
9 paper-based case management system from the filing of a case to its resolution and beyond, such
10 as: the initial receipt of the claim or complaint; the receipt, organization, and secure storage of
11 evidence and briefs; the scheduling of hearings or other proceedings; the maintenance of tools to
12 facilitate the analysis and resolution of the case; and the collection of data relating to the case,
13 including when evidence was received, the time the case has remained pending, employees who
14 have processed the case, and the outcome of the case.

15 An eCMS, properly implemented, may perform these functions in a more efficient and
16 cost-effective manner than a paper-based management system.¹ For example, maintaining paper

¹ Felix F. Bajandas and Gerald K. Ray, Implementation and the Use of Electronic Case Management Systems in Federal Adjudication (February 23, 2018) (draft report to the Admin. Conf. of the U.S.), <https://www.acus.gov/sites/default/files/documents/ACUS%20eCMS%20Draft%20Report.pdf>.



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17 records can be costly with respect to storage space, mailing fees, and salaries for the relatively
18 large number of agency employees needed to receive, store, track, and retrieve records, and
19 locate lost or misfiled records. An eCMS may reduce these costs in addition to reducing
20 processing time and improving interactions with litigants. In addition to improving the
21 traditional functions of a paper-based case management system, an eCMS may also provide new
22 functionalities, such as making structured data available for analysis that can be used to improve
23 an agency's operations.

24 Perhaps more importantly, an eCMS can assist adjudicative agencies in fulfilling their
25 duties under various laws that impose requirements related to paperwork reduction, agency
26 efficiency, public access to records, and technology management. For example, the Government
27 Paperwork Elimination Act requires that federal agencies use electronic forms, electronic filing,
28 and electronic signatures to conduct official business with the public, where practicable.²
29 Similarly, the E-Government Act of 2002 directs agencies to establish "a broad framework of
30 measures that require using Internet-based information technology to improve citizen access to
31 government information and services."³ The implementation of an eCMS would directly fulfill
32 these and other requirements found in both of these statutes.

33 **Considerations in Adopting an Electronic Case Management System**

34 Despite the advantages of an eCMS, the decision to implement an eCMS must be
35 carefully considered. It may not be cost efficient for every adjudicative agency to implement an
36 eCMS given agency-specific factors such as caseload volume. If, after considering the costs, an
37 agency decides to implement an eCMS and partially or fully replace a paper-based case
38 management system, the agency must consider a number of factors in deciding *what* particular
39 eCMS functionalities are to be used and *how* they are to be designed and implemented. Planning
40 for an eCMS implementation thus requires a comprehensive understanding of an agency's
41 structure and business process. Agencies considering implementing or enhancing an eCMS may

² Pub. L. No. 105-277, 44 U.S.C. § 3504 note.

³ Pub. L. No. 107-347, 116 Stat. 2899.



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42 find further benefit in studying the experiences of other agencies' eCMS implementations due to
43 the highly fact-specific nature of an eCMS benefit-cost analysis.

44 Agencies must also be mindful of a number of legal constraints. For example, an eCMS
45 must adequately protect private information about individuals as required by the Privacy Act.⁴
46 An eCMS must also have a robust security plan, as required under Presidential Decision
47 Directive 63 (PDD-63). Specifically, subpart VII. of PDD-63 requires every department and
48 agency to develop a plan for the protection of its infrastructure, including cyber-based systems,
49 and to update it every two years.

50 The implementation or expansion of an eCMS deserves a full and careful consideration
51 by federal agencies with an adjudicative function. However, in recognition that each agency is
52 unique in terms of its mission, caseload, and challenges, this Recommendation suggests that
53 agencies should implement or expand an eCMS only after concluding, upon conducting a
54 thorough benefit-cost analysis, that its use would improve efficiency without impairing the
55 fairness of the proceedings.

⁴ 5 U.S.C. § 552a, as amended by the FOIA Improvement Act of 2016 (Pub. L. No. 114-185).



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RECOMMENDATION

- 56 1. Federal agencies with an adjudicative function should consider implementing electronic
57 case management systems (“eCMS”) in order to further the objectives of statutory
58 requirements, reduce costs, expand public access, and improve both efficiency and
59 accuracy in the processing of cases.
- 60 2. Federal agencies with an adjudicative function should consider whether their adjudicatory
61 proceedings are conducive to an eCMS and whether their facilities and administration can
62 be equipped to utilize the technology required for the use of an eCMS. If so, agencies
63 should then conduct a benefit-cost analysis to determine whether the implementation or
64 expansion of an eCMS would improve efficiency without impairing the fairness of
65 proceedings or the participants’ satisfaction with them. This benefit-cost analysis should
66 consider the following non-exclusive factors:
- 67 a. Whether the agency’s budget would allow for investment in appropriate and
68 secure technology given the costs of eCMS.
 - 69 b. Whether the use of eCMS would reduce case processing times and save costs,
70 including the costs associated with the printing of paper and the use of staff
71 resources to store, track, retrieve, and maintain paper records.
 - 72 c. Whether users of the eCMS, such as administrative law judges, hearing officers
73 and other court staff, parties, witnesses, and attorneys (or other party
74 representatives), would find the eCMS beneficial.
- 75 3. The following possible eCMS features, currently implemented by some federal
76 adjudicative agencies, should be considered by other agencies for their potential benefits:
- 77 a. Web access to the eCMS that allows parties to file a case or claim, submit
78 documents, and obtain case information, largely without interaction with agency
79 personnel, and outside normal business hours.



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- 80 b. Automation of agency tasks in maintaining a case file, such as sorting and
81 organizing case files, providing simultaneous access to files and documents by
82 authorized users, tracking deadlines and elapsed age of a case, notifying parties of
83 new activity in a case, and pre-populating forms with data obtained from the case
84 file.
- 85 c. The comprehensive capture of structured data that allows for robust data analysis
86 to identify opportunities for improving an agency’s operations.
- 87 4. Federal agencies with an adjudicative function that decide to implement or expand an
88 eCMS should plan and manage their budgets in a way that balances the needs of a
89 sustainable eCMS with the possibility of future funding limitations. Agencies should:
- 90 a. Consider and plan for the costs associated with building, maintaining, and
91 improving the eCMS.
- 92 b. Create a map or flow chart of their adjudicative processes in order to identify the
93 needs of an eCMS. This involves carefully delineating the tasks performed by
94 employees at each step in the process to ensure the eCMS captures all of the
95 activities that occur while the case is pending, from initial filing to final
96 resolution. It also includes identifying how members of the public or other non-
97 agency users will access and interact with the eCMS.
- 98 c. Put in place a management structure capable of: (1) restoring normal operations
99 after a system goes down (incident management); (2) eliminating recurring
100 problems and minimizing the impact of problems that cannot be prevented
101 (problem management); (3) overseeing a new release of an eCMS with multiple
102 technical or functional changes (release management); (4) handling modifications,
103 improvements, and repairs to the eCMS to minimize service interruptions (change
104 management); and (5) identifying, controlling, and maintaining the versions of all
105 of the components of the eCMS (configuration management).
- 106 d. Establish a “service desk” or central hub for reporting issues with the eCMS and
107 providing support to eCMS users, including providing feedback on the resolution
108 of problems. A service desk should gather statistics of eCMS issues in order to



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- 109 help guide future improvements of the eCMS. A service desk could also enable
110 eCMS users to offer suggestions for improving the eCMS.
- 111 e. Plan adequate training for staff on the use of the eCMS.
- 112 5. Federal agencies with an adjudicative function that decide to implement or expand an
113 eCMS should ensure the security of the system by:
- 114 a. Establishing a privacy and access policy prior to implementing an eCMS or when
115 significantly changing the online capabilities of an eCMS.
- 116 b. Providing agency access to case information to only those agency employees who
117 are processing or reviewing the case for the agency, limiting public access to case
118 information only to the parties to a case, and in that instance, also restricting
119 public access to internal agency analyses and deliberations regarding the case.
- 120 c. Adopting security measures, such as encryption, to ensure that information held in
121 an eCMS cannot be easily accessed or changed by wrongdoers.
- 122 d. Ensuring that sensitive information is not inadvertently provided to unintended
123 third parties through use of private email services, unsecured transmission of data,
124 or otherwise.
- 125 e. Keeping track of the evolution of security technologies and considering the
126 adoption of those technologies as they mature.
- 127 6. Federal agencies with an adjudicative function that decide to implement or expand an
128 eCMS should consider how to analyze and leverage data that is captured by the eCMS to
129 improve their adjudicative processes. Agencies should consider:
- 130 a. Evaluating during the construction of the eCMS the types of data that would be
131 useful for evaluating the effectiveness of their adjudicative processes and policies.
- 132 b. Capturing data about their adjudicative processes and policies and analyzing it to
133 detect and define problem areas that present opportunities for improvement. Once
134 root causes for problems are identified, taking corrective action, refining
135 performance goals, and measuring performance under the newly improved
136 process.



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- 137 c. Hiring staff trained in data science to facilitate data analysis and giving that staff
138 access to subject matter experts within agencies.