

**PREPARED TESTIMONY**

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**OFFICE OF COMPLIANCE**

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**SENATE COMMITTEE ON APPROPRIATIONS**

**SUBCOMMITTEE ON THE LEGISLATIVE BRANCH**

**March 3, 2011**

Mr. Chairman, Senator Hoeven, and distinguished Members of the Subcommittee, I am honored to appear before you today on behalf of the Office of Compliance (“OOC” or “Agency”). Joining me today are General Counsel Peter Ames Eveleth, Deputy Executive Director Barbara J. Sapin, Deputy Executive Director John P. Isa, and Budget and Finance Officer Allan Holland. Collectively, we present to you the Agency’s request for appropriations for fiscal year 2012, and we seek your support for our request.

For fiscal year 2012, the Agency is requesting a total of \$4,782,000, a \$106,509 or 2.28% increase over the Agency’s fiscal year 2011 requested appropriations level of \$4,675,491, and an increase of \$405,001 or 9.25% increase from the fiscal year 2010 enacted appropriations level of \$4,377,000. This funding would provide the Agency with the resources necessary to continue the most critical services that are required by the Congressional Accountability Act. As discussed below, however, even with the requested funding, certain mandatory services will be beyond our means. The minimal increase for FY 2012 includes funding for increased costs of administrative services from the Library of Congress and funding for basic operations to perform our core programs: administrative dispute resolution services, safety & health and disability access inspections, and education and outreach services, all of which are mandated by the Congressional Accountability Act.

The Office of Compliance is a small agency with a broad statutory mission. Established by the passage of the Congressional Accountability Act of 1995 (“CAA”), this agency was created by Congress to administer the workplace rights laws, safety and health laws, and public accessibility laws that applied to the private sector and, in the case of some laws, to the rest of the Federal Government. The CAA requires that the Office of Compliance carry out a dispute resolution program for employing offices and employees; inspect Legislative Branch facilities for compliance with safety & health and disability access laws; promulgate regulations for implementation of applicable laws under the CAA; and educate members of the covered community about their rights and responsibilities under the Act. These are our mandates; this is the work you have asked us to do.

Over the years, this Subcommittee has demonstrated a real appreciation for the work performed by the Office of Compliance. In particular, this Subcommittee has shown strong support for our safety and health program by allocating the resources necessary for us to complete the required inspections of Legislative Branch workplaces. Further, the Subcommittee has authorized needed personnel to manage our safety and health program and to oversee the implementation of the settlement agreement that is abating the life-threatening hazards in the Capitol Power Plant utility tunnels. Mr. Chairman, it was through your efforts on this Subcommittee and your work on the Rules Committee that a Blue Ribbon Panel of architects and fire safety experts was convened to provide an independent assessment of fire safety issues in the Russell Senate Office Building. Indeed, it is this Subcommittee's dedication to fire safety issues that paved the way for the OOC and the Office of the Architect of the Capitol to engage in a cooperative effort to set abatement priorities among the fire and life safety hazards present in Legislative Branch facilities. Surely, the scheduling of the two agencies to appear before you today is reflective of the Subcommittee's commitment to address these issues promptly and comprehensively.

With the sustained support of this Subcommittee, the Office of Compliance has been able to ensure that Legislative Branch workplaces are subject to the same laws applicable to workplaces in the private sector and other Federal agencies. Our FY 2012 requested increase is minimal: \$106,509, almost half of which is attributable to the Library of Congress' increased charge for administrative services it provides to this Agency. The remainder of the increase reflects additional costs due to inflation and for minimal operational costs. We have essentially presented you with a flat budget for fiscal year 2012.

#### **WHAT WE CAN DO WITH FY 2011 and FY 2012 FUNDING**

In FY 2011, the Agency requested an additional \$298,491 in funding to support several initiatives: the development and implementation of the risk-based inspection and abatement approach that the Conference Committee on FY2010 Legislative Branch Appropriations directed OOC to institute; essential improvements to our antiquated and increasingly inefficient IT infrastructure; and the salary increase required by federal law. For the FY 2011 appropriations cycle, staff of the OOC examined our programs in conjunction with our statutory mandates and made significant efforts to streamline our appropriations request to reflect the country's and the Government's economic difficulties. As a result, we presented an appropriations request that contained only those items necessary to meet the most fundamental of our statutory mandates.

FY 2012 funding at the requested level (inclusive of FY 2011 requested funding) will allow the OOC to employ the risk-based biennial inspection and abatement approach contemplated in the FY 2011 budget request. This risk-based approach is resource-intensive for our agency but should result in cost savings across other agencies in the Legislative Branch. This approach allows the OOC to target the riskiest workplaces and work activities, such as machine shops, high voltage areas and boiler rooms. We would concentrate our limited resources on areas where the risks are highest (the Capitol Power Plant and hazardous chemical storage rooms, for example); focus the technical assistance we provide on reducing on-the-job injuries and illnesses; and remedy those violations that pose the most serious threats to workers' safety. Of course, cooperation with the Office of the Architect of the Capitol's staff, as well as with other employing offices, is an integral part of the development and implementation of this approach. Working with the employing offices, our inspectors would carefully review and assist in the development of written safety programs that protect employees who work with certain hazardous materials. Our staff will observe employees while they work to determine their understanding of safety programs designed to protect against injuries. A careful examination of fire prevention programs is essential in the many Capitol Hill facilities that have serious life safety deficiencies.

This Subcommittee's support of OOC's requested appropriations for FY 2011 and FY 2012 will allow the OOC to continue to work with high quality mediators and hearing officers. One of OOC's core statutory functions is to provide confidential and timely counseling, mediation, and hearing services to assist employees and employing offices in resolving workplace rights claims, such as discrimination and harassment. Supplying the parties with highly skilled mediators and hearing officers allows the OOC to equip the parties with the tools necessary to reach amicable agreement and to fairly resolve and adjudicate claims.

In addition, FY 2012 funding at the requested level (inclusive of FY 2011 requested funding) will allow the OOC to update its out-of-date communications and IT systems to improve efficiency and enhance the security of vital information. OOC's IT systems are the warehouse for workplace rights claims filed against Members of Congress. Accordingly, it is essential that these systems use the best security measures available to protect your confidential information. The OOC has already begun collaborative efforts with the Library of Congress to share services and develop OOC IT systems that maintain the confidentiality of this information and meet the highest of security standards.

#### **WHAT WE CANNOT DO EVEN WITH WHAT WE REQUESTED**

Our FY 2012 request is basically flat. We approached FY 2012 knowing that only minimal funding essential to meet the bare requirements of our mission would be available. That being the case, we did not seek contract funding for a safety and health inspector despite the fact that we have one fewer inspector than in the past. In our FY 2010 and FY 2011 budget requests, we noted our need for such an inspector, but indicated our intention to fill the need by obtaining a non-reimbursable detailee from the Department of Labor or other executive branch agency. Fiscal and other constraints have prevented other agencies from supplying such a detailee, and we have been advised that no detailee will be available in the foreseeable future. The need remains, however: the risk-based approach requires more time and expertise than the inspections of the past. At the same time, we are facing roughly one million additional square feet of Legislative Branch work space (to add to the existing 17 million square feet) that is expected in FY 2011 and 2012. As a consequence, our Agency will be unable to offer all the services described above at the same level as in prior years. Some services may be reduced, while others may need to be discontinued altogether. In particular, the tradeoff is that we will not be able to inspect every workplace; instead, we will rely on employing offices to self-inspect certain lower-risk offices and administrative spaces. While we intend to inspect high-hazard workspaces, our ability to inspect all such areas is likely to be limited as well.

#### **WHAT HAPPENS WITH CUTS BELOW CURRENT LEVELS**

Should there be cuts below the current spending level of FY 2010, the Office of Compliance will be forced to cut other services, as well as associated resources. As a statutorily-mandated service agency, our business is largely driven by requests to our office – requests for information, requests for counseling, requests for mediation, requests for technical assistance, requests for inspection. Given that our agency’s visibility has increased over the years, we are currently receiving more requests than we have in the past, from employees and employing offices alike. Consequently, any gap between our resources and our work will be immediately apparent to the covered community.

OOC’s staff remains small. There are no overlapping functions. Thus, reductions to our resources could require us to eliminate not only positions, but entire programs as well. Should our resources be reduced below current levels, we will be faced with cutting back the services that you have mandated, and the delivery of remaining services may suffer.

Specifically, as mentioned above, the OOC will struggle to meet our safety and health mandate even if our request is fully funded. Further reductions will mean fewer electrical shops inspected, less time observing workers’ use of hazardous chemicals and reduced reviews of fire prevention programs in buildings with deficient emergency exits. The result would likely

be more workplace injuries and illnesses, which in turn require higher workers' compensation costs, more overtime hours and reduced productivity – all on top of the pain and suffering experienced by the injured employee. Further cuts would thus be both painful and counterproductive.

Additional reductions would likely force us to reduce or even terminate our disability access activities. We are obligated to ensure that members of the public do not confront barriers when seeking access to their elected representatives. With full funding, we will survey the routes between public transportation and Congressional buildings to ensure that they are barrier-free. Any cuts below present levels may require us to discontinue this effort.

In addition, funding for our dispute resolution program facilitates parties' ability to reach confidential settlements at an early stage of the process. A reduction in funding might force us to reduce the number and duration of our contracts with mediators and hearing officers. These resources are vital to the success of early resolution efforts. In fact, just last week, the Office of Compliance was able to provide additional mediation services for the parties to a particular dispute. These additional services enabled the parties to reach an amicable settlement. A cut to these resources would mean less mediation time, thus diminishing the likelihood of favorable settlements. The result is protracted litigation – involving depositions, testimony, pleadings, appeals – all of which are resource-intensive, and all of which put an unnecessary drain on taxpayer dollars.

## **CONCLUSION**

As stated above, the Office of Compliance is realistic about the available resources in FY 2012. We understand the challenges faced by the Federal Government, and this Subcommittee in particular. We recognize the need to present a bare-bones appropriations request; so we have done just that. What that leaves us with, however, is reduced services. The OOC's work is integral to the safety and health of each and every employee of the Legislative Branch; it is essential to the fair workplace that Congress provides; and it is needed by people with disabilities who, like all other citizens, deserve access to their elected officials. Our work is vital to the work of Congress: we administer basic, fundamental rights for individuals, and we do so because you have determined that you want these protections. With the requested funding, we can ensure that these protections continue to be administered.

On behalf of the Board of Directors and the entire staff of the Office of Compliance, I thank you for your support of this Agency. I would be pleased to answer any questions.