

PREPARED TESTIMONY
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OFFICE OF COMPLIANCE

SENATE APPROPRIATIONS
SUBCOMMITTEE ON THE LEGISLATIVE BRANCH

Madam Chair and Members of the Committee, thank you for the opportunity to appear before you today in support of the FY 2008 budget request of the Office of Compliance.

Board Member Barbara Camens is in attendance with me today to express the support of the Board of Directors for the Office's FY 2008 budget request. Also with me today are General Counsel Peter Ames Eveleth, Deputy Executive Director Alma Candelaria, and Administrative and Budget Officer Beth Hughes Brown.

As we have in the past, we present our budget request as a completely zero based budget, in an effort to provide transparency of the Office's operations, and to assist the Committee in understanding from the ground up how the Office operates its mandated programs in employment dispute resolution, in Occupational Safety and Health and ADA public access inspections and enforcement, and in education and outreach programs. This year, we have requested a total of \$4,106,000 for fiscal year 2008 operations. A large portion of this request, \$280,200 (28% of the requested increase), is attributed to the required abatement monitoring of the utility tunnels case.

The Office of Compliance ("OOC" or "Office") approaches fiscal year 2008 with a new Strategic Plan. Although our Plan was implemented at the beginning of fiscal year 2007, 2008 will be the first fiscal year in which the Office has requested funding in support of this Plan. Prior to the end of our first three-year Strategic Plan in fiscal year 2006, the Office began preparation for the drafting of our current Plan. We incorporated input from our entire staff, outlining our major goal of focusing on meeting the workplace needs of the legislative branch, and positioning ourselves to act as a resource to the covered community. Shortly after the beginning of fiscal year 2007, the Office finalized a Plan which covers fiscal years 2007-2009, with focused efforts on communication and collaboration with agencies and employing offices, and providing technical guidance as needed. As we strive to meet the goals and performance measures of our current Strategic Plan, we face new operational challenges of funding and staffing. We request your assistance in overcoming these challenges.

Occupational Safety and Health

The Congressional Accountability Act's ("CAA") statutory mandate requires that our office conduct a workplace safety and health inspection program. The monitoring of remediation of hazards found through the Office's inspection program remains a vital part of the safety and health program. During fiscal year 2006, the General Counsel increased his efforts to remedy two serious violations which posed imminent danger to workers, one of which was unabated safety violations which existed in the Capitol Power Plant utility tunnels since before 1999. The Office's filing of our first ever formal complaint led the Office of the Architect of the Capitol ("AOC") to implement immediate interim abatement measures to protect workers in the tunnels from imminent harm.

With that protection in place, the AOC and the Office engaged in settlement negotiations to resolve the formal complaint by devising a plan which requires abatement of the identified hazards, continued interim protection for affected AOC employees until full abatement is achieved, and monitoring of the abatement progress by the Office of Compliance. In order to ensure the safety and health of workers, this monitoring may require the procurement of expertise that the Office does not have available on staff. The current staff complement of the OOC has been stretched in both FTE resources and contractor funding, and we currently do not have available the expertise to address many of the specifics involved in the abatement of the tunnels hazards. Our fiscal year 2008 budget request includes \$120,000 for funding to cover the costs of an OOC liaison (a safety and health expert) who will help us continuously interface with the AOC's liaison to facilitate abatement pursuant to the tunnels settlement agreement. An additional \$152,000 is requested so that our office may obtain the expertise of other expert consultants who can address structural, heat, egress, mold, and asbestos issues.

The monitoring of the utility tunnels as well as the monitoring of the nearly 13,000 findings our inspectors detected in our 109th Congress biennial inspection will require substantial time and resources. Our multi-year Plan considers this time and resource requirement and will allow for comprehensive abatement. One portion of our Plan to monitor abatement of the approximate 13,000 findings is the acceleration and increase of our follow-up inspections of the most critical of those findings. With the number of findings before us, we recognize -- and the fiscal year 2006 Senate Appropriations Subcommittee Chairman reminded us -- that it is essential that the Office incorporate mechanisms and personnel to better assure efficiency and timeliness in its monitoring program. As such, the need for a compliance officer, who would be dedicated to monitoring the abatement schedules of employing offices and ensure that employing offices have taken appropriate steps towards resolution of identified hazards and violations, is most critical. We request one FTE to serve as a compliance officer, to provide consistent monitoring of abatement of hazards, assure timely abatement of OSH hazards identified in the OSH biennial inspections and requestor-initiated inspections, and ensure compliance with OSH-related citations.

In our fiscal year 2007 budget request, the Office explained its need for a management analyst to perform the administrative tasks that our inspectors once performed at a much higher cost. This need became so apparent that, while we awaited congressional consideration of our request, the Office engaged in a reorganization. Sacrificing the support of administrative staff, we reorganized positions and reprogrammed contractor funds to allow the duties of the management analyst to be performed immediately. As a result of the reorganization, inspector efficiency has increased; however, the Office still suffers from a lack of clerical/administrative support. We are requesting funding to add a 0.5 FTE position to ensure that the attorneys and inspectors are able to focus on the substantive nature of their work, as opposed to performing accompanying administrative tasks. The function of the remaining half of this position is addressed below.

The large number of findings in our 109th biennial inspections contemplates the notion that there may exist deficiencies in the safety and health plans and programs of the legislative branch. In an effort to be a resource to our covered community, the Office seeks to provide technical assistance to Member offices as well as employing offices. As mentioned in our Strategic Plan, the Office is prepared to review and analyze the covered community's safety plans to determine whether the plans meet OSHA requirements. We are requesting funds in support of this initiative with the hope that our early technical assistance might prevent the occurrence of future hazards.

Similarly, the Office is committed to providing early assistance to state offices as well. The lack of funding has prevented the Office from conducting in-person inspections of covered facilities in state offices, as mandated by the CAA. However, we are developing a plan by which we can assist Congress in assuring worker safety in state offices. Through collaboration with stakeholders, we plan to develop and pilot self-certification check lists to provide to state offices in an effort to educate them on OSHA requirements, and to better equip them in assuring that the responsible party (e.g., GSA, private landlords) corrects any identified hazards.

In addition, the anticipated opening of the Capitol Visitor Center during FY 2008 has impacted our office as well. The Office stands ready to provide preliminary assistance in assessing the safety of the CVC prior to its occupancy. Once the CVC is occupied and it is added to the Office's inspection cycle, it will add approximately .7 million square feet to the Office's area of inspection. Thus, we are seeking funding to sustain the increased workload.

Education and Outreach

The Office is mandated by Congress to "carry out a program of education for Members of Congress and other employing authorities of the Legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws made applicable to the Legislative branch of the Federal Government. . . ." 2 U.S.C. 1381(h)(1). The Office continues to carry out this core mandate of the Act through various educational and outreach activities.

In line with the Office's initiative to act as a resource to legislative branch employees and employers, the Office has begun major efforts to disseminate a baseline survey to its constituents. We have devised a survey instrument to apply initially to House and Senate offices, with the intent of applying the same instrument to another large group of our constituents in the current fiscal year. The survey has been designed to gauge the community's general knowledge of the Office, their rights and responsibilities under the CAA, and their general satisfaction with the Office. This initiative ultimately will result in the first comprehensive evaluation of the Office's education efforts and services. The Office anticipates that this initial survey, followed by focus groups and additional surveys, will result in feedback and pointed data to allow the Office to perform a concentrated effort to improve and streamline and more precisely target services to fit the needs of the community. With your assistance, we have been able to fund Phases I and II in the past two fiscal years. We are seeking additional funding for Phase III of our survey activities to establish the baseline against which we will measure our success in achieving our educational statutory mandate.

Dispute Resolution

The Office's employment dispute resolution program provides a mechanism for employing offices and employees to address issues involving ten different laws of the CAA, ranging from alleged discrimination to the alleged failure to pay required overtime. The successes of the dispute resolution program remain largely unnoticed because of the confidential nature of its administrative phases: counseling, mediation, and hearing processes conducted by the Office. Hundreds of disputes in nearly all legislative branch agencies, as well as in offices of Members and committees of both chambers have quietly been addressed through our administrative dispute resolution system since the Office's inception in 1996. The assistance to employing offices and employees provided by this confidential service is reinforced through well-trained staff who provide exemplary services to employees and through the expertise of contract mediators and hearing officers who remain accomplished in their field.

The need for contracted legal expertise is anticipated to continue in fiscal year 2008. Currently, the Office has received a large number of complaints which have proceeded to hearing and may proceed to the administrative appellate stage before the Office's Board of Directors. During the first quarter of fiscal year 2007, there were pending before the Board five cases for appellate review. The preparation of these decisions, to include legal research, legal writing, and legal analysis, requires expert assistance in order to render sound Board decisions in a timely fashion. The Office currently has staff dedicated to this program requirement; however, because complaints continue to be filed at a steady pace, and because the Office does not foresee a decrease in the number of appeals of hearing officers' decisions, assistance from a contract attorney will aid the office in providing timely Board decisions.

Management Support

As mentioned above, the Office of Compliance makes extensive use of service vendors and personal services contractors to provide many of our vital functions, including employment dispute resolution and OSH inspections. In general, this practice provides significant cost savings and allows this small agency to maintain capacities on an "as-needed" basis. However, some core internal control functions are currently also under-served or contracted out due to our limited FTE authorization, which at 17 is two less than the agency was authorized in FY 1998.

The Office has just two FTE's dedicated to all IT, HR, general administrative support and fiscal management functions. This situation has resulted in inefficiencies, work load overages, and the necessity to contract out core functions, such as accounts payable. Accounting staff is necessary to ensure that a separation of functions can be maintained in our fiscal management. HR/project management staff is necessary to further the Office's commitment to best practices, allowing program managers to concentrate on their areas of expertise. General administrative staff is necessary to address workload issues of staff who have to perform administrative duties instead of duties in their own subject matter areas. As mentioned in our fiscal year 2007 budget request, we are requesting one analyst FTE to address our HR and project management deficit, and an accounting technician FTE to bring our basic accounting and other fiscal responsibilities on staff. The cost of these FTE's will be partially offset by a reduction in contractor expenses. In addition, we are requesting a half-time FTE to complete the part-time receptionist position, so that our remaining staff can concentrate on performing the duties of their respective substantive areas.

Conclusion

There are a number of other requests in our budget submission which we commend for your consideration. The ones referenced herein are presented to highlight a portion of the endeavors which our office hopes to undertake with your assistance. On behalf of the Board of Directors, the appointees and the entire staff of the Office of Compliance, I thank you for the Committee's support of the efforts of this agency. I assure you that the Office is committed to the most efficient and prudent use of taxpayer money. I respectfully request that the Committee respond favorably to the Office's fiscal year 2008 budget request. We will be happy to respond to any questions which you may have.