

February 2004

OFFICE OF  
COMPLIANCE

Status of Management  
Control Efforts to  
Improve Effectiveness



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-04-400](#), a report to the Subcommittee on Legislative Branch, Committee on Appropriations, U.S. Senate and Subcommittee on Legislative, Committee on Appropriations, U.S. House of Representatives

## Why GAO Did This Study

The Consolidated Appropriations Resolution of 2003 Conference Report mandated that GAO review the Office of Compliance (OOC), an independent legislative branch agency created by the Congressional Accountability Act of 1995 (CAA). OOC, a 15-person office with about \$2 million in expenditures during fiscal year 2003, administers and enforces various CAA provisions related to fair employment and occupational safety and health among certain legislative branch agencies. OOC's current Executive Director has been in place since April 2001 and its General Counsel joined the Office in June 2003. The mandate directed GAO to assess the OOC's overall effectiveness and efficiency and to make recommendations, as appropriate.

## What GAO Recommends

GAO makes several recommendations to strengthen OOC's strategic planning process, facilitate communications between OOC and its congressional and legislative branch stakeholders, and build an enhanced control management environment within OOC. This report also contains matters for congressional consideration regarding statutory changes to the CAA to help maintain institutional continuity for OOC.

In a joint response, OOC's Board of Directors, Executive Director, and General Counsel all generally agreed with our recommendations and stated that OOC is making progress toward their adoption and implementation.

[www.gao.gov/cgi-bin/getrpt?GAO-04-400](http://www.gao.gov/cgi-bin/getrpt?GAO-04-400).

To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806 or [mihmj@gao.gov](mailto:mihmj@gao.gov).

## OFFICE OF COMPLIANCE

# Status of Management Control Efforts To Improve Effectiveness

## What GAO Found

OOC is in the early stages of a concerted and vitally needed effort to improve and strengthen management control across the Office and to carry out its mission more effectively and efficiently while safeguarding its institutional independence. OOC's success in completing this important effort depends upon making significant progress on a number of key management control areas:

**Sharpen focus on results.** OOC's current strategic planning initiative is beginning to address the more fundamental question of the Office's effectiveness rather than the Office's traditional focus on activities and outputs, such as the number of cases processed and inspections conducted. OOC's planning initiative can also provide a vehicle for engaging and consulting with key congressional and other stakeholders on OOC's purposes, how those purposes will be achieved, how progress will be assessed, and for sustaining feedback on what progress is being made and what additional improvement opportunities exist. The planning initiative is still very much a work in progress and continued efforts are needed in a number of key areas including developing results-oriented performance measures.

**Ensuring an effective program structure.** As OOC shifts its focus from outputs and activities to results, it must put in place a more effective program structure that includes new ways of doing business. OOC has taken a number of actions to administer the CAA, such as managing a dispute resolution process and conducting investigations and inspections to ensure compliance with safety and health standards. However, OOC is not fully in compliance with the CAA's requirement concerning biennial safety and health inspections of legislative branch agency facilities. OOC also needs to expand on recent efforts to develop programs that are based on collaboration with legislative branch agencies.

**Building effective communication emphasizing outreach and coordination.** OOC's congressional and other stakeholders whom we interviewed said that OOC recently has used a more collaborative approach rather than the "gotcha" approach of the past. On the other hand, several agency officials said that current interactions with OOC could be improved. To facilitate more effective communications, OOC should establish congressional and agency protocols to document agreements between the Congress, legislative branch agencies, and OOC on what can be expected as OOC carries out its work.

**Creating and sustaining an enhanced management control environment.** Since its creation, OOC has operated without having any formal performance management system for its Executive Director and General Counsel. OOC should establish an enhanced management control environment and strengthen accountability by requiring performance agreements between the Board and both the Executive Director and General Counsel, as well as expanding and improving on OOC's performance management system for all staff. Another important challenge concerns the lack of institutional continuity that may occur due to statutory term limits on OOC's leadership positions. To prevent the loss of critical organizational knowledge, the Congress should consider changing the term limits contained in the CAA.

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**Abbreviations**

ADA	Americans with Disabilities Act
AOC	Office of the Architect of the Capitol
CAA	Congressional Accountability Act
EEOC	U.S. Equal Employment Opportunity Commission
GPO	Government Printing Office
GPRA	Government Performance and Results Act
LOC	Library of Congress
OOC	Office of Compliance
OSHA	Occupational Safety and Health Administration
IT	information technology
USCP	United States Capitol Police

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United States General Accounting Office  
Washington, D.C. 20548

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February 3, 2004

The Honorable Ben Nighthorse Campbell  
Chairman  
The Honorable Richard Durbin  
Ranking Minority Member  
Subcommittee on Legislative Branch  
Committee on Appropriations  
United States Senate

The Honorable Jack Kingston  
Chairman  
The Honorable James P. Moran  
Ranking Minority Member  
Subcommittee on Legislative  
Committee on Appropriations  
House of Representatives

Congress established the Office of Compliance (OOC) in 1995 as an independent office within the legislative branch to administer and enforce various provisions of the Congressional Accountability Act (CAA) related to fair employment and occupational safety and health. As mandated by the Consolidated Appropriations Resolution of 2003 Conference Report,<sup>1</sup> we examined OOC's effectiveness and efficiency in fulfilling its responsibilities and role as set out in the CAA. Our specific objective was to assess key management controls in place at OOC and identify what improvements, if any, could be made to strengthen OOC's effectiveness and efficiency.

Management controls, also known as internal controls, are a major part of managing an organization.<sup>2</sup> They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management. Effective management control also helps in managing change to cope with shifting environments and evolving demands and priorities. As programs change and as agencies strive to improve operational processes and implement new technological developments, management must continually assess and evaluate its

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<sup>1</sup>H. Rpt. 108-10, Feb. 13, 2003.

<sup>2</sup>U.S. General Accounting Office, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

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management control to assure that activities being used are effective and updated when necessary.

To meet our objective, we analyzed applicable laws, legislative history, rules, and regulations; obtained and analyzed written documentation of guidance, policies, procedures, and performance of OOC; met with the OOC Board of Directors; conducted interviews with OOC executives, managers, and staff; met with key congressional stakeholders and officials in other legislative branch agencies and offices; and performed selected reliability and validity tests of OOC's administrative dispute resolution database. We also drew on key management practices and guidance identified in previously issued GAO reports, where appropriate.

In addition, to assist OOC in its management control improvement efforts, we provided OOC with briefings, reports, and examples of best practices in the areas we reviewed. For example, at OOC's request, GAO officials provided briefings on our approach to strategic planning and provided copies of GAO strategic planning documents. We plan to continue working with OOC's leadership and to meet with them regularly to discuss the progress of their management reform initiatives. We performed our work in Washington, D.C., from January 2003 through January 2004 in accordance with generally accepted government auditing standards. See appendix I for additional information on our scope and methodology.

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## Results in Brief

OOC's Board of Directors, senior leadership, and employees are in the early stages of a concerted and vitally needed effort to improve and strengthen management control across the Office. This effort will need to address a fundamental question—how effective are OOC's efforts in contributing to achieving mission results such as fostering a safer and healthier workplace that is free from discrimination and other forms of conflict? OOC will also need to address concerns of congressional and other stakeholders about whether the Office's scarce resources are being targeted efficiently. OOC's ability to answer these critical issues will depend on, among other things, its ability to make significant progress in the following four key management control areas:

**Sharpen focus on results:** OOC has begun to more fully define the fundamental results, or outcomes, that it seeks to achieve. Traditionally, OOC's operations and reporting have emphasized activities or outputs, focusing on measures such as the number of mediation requests received, the number of health and safety inspections conducted, or the time taken

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for particular phases of a process. While these types of measures provide important information on the efficiency of its operations, OOC's current strategic planning initiative will begin to address the more fundamental question of OOC's effectiveness in achieving actual mission results. As part of this process, OOC has defined its mission as working to "advance safety, health, and workplace rights for employees and employers of the Legislative Branch as mandated by the Congressional Accountability Act." Towards that end, the OOC has identified three strategic objectives or goals: (1) effectively enforce and administer the CAA, (2) educate, collaborate, and facilitate its regulated community, and (3) maintain an efficient and accountable workplace.

OOC's strategic planning initiative is an important and positive development that is still very much a work in progress. OOC's planning effort can provide a vehicle for engaging and consulting with key congressional and other stakeholders on the fundamental purposes of OOC, how those purposes will be achieved, how progress will be assessed, and what progress is being made and improvement opportunities exist. Congressional and other stakeholders also need to be engaged as OOC develops results-oriented performance measures. By doing so, OOC will help to improve its performance, assure its accountability, and provide for more useful and transparent annual reports. Building on the planning effort, OOC is in its early stages of developing work plans to ensure its daily operations, programs, and activities are aligned with the goals and priorities in its plan. The strategic use of information technology (IT) provides a key and continuing opportunity to improve OOC efficiency and effectiveness.

We make several recommendations to OOC to help it continue and advance its efforts to become more results-oriented. Specifically, we recommend that OOC's strategic plan includes performance measures that link directly with annual work plans, integrates IT planning and implementation, and is developed with extensive collaboration and input from key congressional and agency stakeholders. In addition, we recommend that OOC use its completed strategic plan as the basis for future budget and staff requests, as well as a basis for developing and implementing new program initiatives and assessing the contributions of those initiatives to achieving results. We further recommend that OOC's strategic plan provide the foundation for developing an augmented and more results-oriented annual report that provides data on the degree to which key goals are being achieved, in addition to meeting existing statutory reporting requirements, as is currently the case.

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**Ensuring an effective program structure:** As OOC shifts its focus from outputs and activities to the results of those outputs and activities, it must put in place a program structure that meets its statutory responsibilities, contributes to real improvements in the working environment and workplaces of legislative branch employees, and safeguards OOC's independence. The CAA contains a series of specific requirements for OOC to meet as it carries out its responsibility to administer and enforce the CAA. Toward this end, OOC has taken a number of actions, including administering a dispute resolution process; conducting investigations and inspections to ensure compliance with safety, health, and disability access standards; investigating and managing matters concerning labor-management relations; and educating both employees and employing offices about their rights and responsibilities under the CAA.

Leading organizations have found that as they shift their orientation to results, new, different, and more effective ways of doing business will emerge. OOC is beginning to experience such changes. For example, in light of the increasing demands for health and safety inspections, and the very small number of OOC staff available to conduct those inspections, OOC's General Counsel and his staff have begun to explore possible approaches to leverage OOC's limited resources through constructive engagement with legislative branch agencies covered under the CAA. As an example of this constructive approach, OOC will sponsor the first-ever Organizational Health and Safety Program Conference for legislative agencies in February 2004.

We make a number of recommendations to help OOC accelerate this needed shift in orientation and instill a more effective program structure. Specifically, we identify several ways OOC can strengthen its effectiveness using data including improving how the Office measures its activities and performance. These include the possible use of benchmarks to facilitate comparison and analysis; developing additional measures to provide a more complete picture of its workload; using information on the number and type of complaints it receives to better target education and information distribution efforts; and increasing its capacity to use occupational safety and health data to facilitate risk-based decision making. We also recommend that OOC explore additional ways to better disseminate information including establishing a clearinghouse for sharing best practice information on topics covered by the CAA; reaching out to relevant congressional groups, forums, and networks to ensure they are aware of OOC's programs and activities; and working with the Congress to determine the feasibility of using feedback surveys and focus groups to



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provide information on awareness among legislative branch employees and employers concerning their programs and activities. Finally, we recommend that OOC work with the Congress to develop a strategy to ensure that all facilities under OOC's jurisdiction and located in the Washington, D.C. area—including the Senate and House page dormitories, and the National Library Service for the Blind and Physically Handicapped of the Library of Congress—receive occupational safety and health inspections at least biennially, as required by the CAA. These facilities were not included in the last biennial inspection conducted in 2002. OOC officials told us that the decision not to inspect these facilities was largely due to resource constraints.

**Building effective communication emphasizing outreach and coordination:** OOC needs to develop a communications strategy to seek mutual understanding among OOC's key congressional stakeholders and agencies covered by the CAA concerning its mission and role as well as build trust among its stakeholders and clients. Developing an effective communications strategy could also assist OOC in becoming more collaborative and partnerial. Our interviews with OOC's congressional stakeholders found that OOC's efforts to consult with the Congress have been uneven and could benefit from having a set of congressional protocols, which would document agreements between the Congress and OOC on what congressional stakeholders can expect as the Office carries out its work. Likewise, OOC could make progress in achieving its mission by developing protocols for interacting with legislative branch agencies covered by the CAA. Some congressional staff members and agency officials said that OOC had recently shown a new attitude and approach in its work that is characterized by greater collaboration and cooperation rather than a "gotcha" approach that they said often characterized OOC's past efforts. On the other hand, several agency officials said that interactions with OOC were not good. They said, for example, that OOC failed to always follow its own rules and procedures when conducting investigations of health and safety complaints.

We recommend that OOC develop both congressional and agency protocols to facilitate open and effective communications with stakeholders, clients, and other recipients of the Office's services and activities. The purpose of such protocols is to help create a basic understanding of OOC's goals, functions, and procedures, what OOC will communicate to whom, when, and how, and not to compromise the independence the Congress gave OOC to enforce the CAA. In both cases, OOC should carefully pilot the protocols before they are fully implemented so that OOC, the Congress, and

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legislative agencies can gain experiences in their application and that appropriate adjustments can be made. We also recommend that OOC review and revise OOC's case-handling policies and procedures and ensure that they are effectively communicated with appropriate legislative agency officials.

**Creating and sustaining an enhanced management control environment:** OOC also faces challenges in creating an enhanced control environment, which forms the foundation for an organization's ability to put into place the management controls necessary for effective and efficient operations. A key factor that could affect OOC's management control is the lack of institutional continuity due to the term limits of OOC's Board and senior leadership positions and the impending required turnover of these individuals. Specifically, because the CAA permits incumbents in these positions to serve only a single, nonrenewable 5-year term, the Chair and two members of the five-member Board will conclude their service in September 2004, and the two remaining members will leave 8 months later in May 2005. Similarly, the terms of all of OOC's senior executives, except the General Counsel, will expire within 6 months of each other in 2006. Taken together, eight out of nine of OOC's top officials will have left the organization by September 2006.

Adding to this challenge is the fact that OOC has operated without any formal performance management system for its Executive Director and General Counsel since its creation in 1995, although as of 2003 these officials prepare annual self-assessments. OOC's Board can strengthen accountability for specific goals and help align daily operations with the organization's programmatic goals by going the further step of requiring performance agreements for the Executive Director and General Counsel. In addition, while OOC established a performance management system for most of its staff in 2002, some individuals continue to work without any formal system to set goals, establish individual expectations, provide feedback, and evaluate their performance. OOC's need to establish a modern, effective, and credible performance management system with appropriate safeguards for all its employees represents an additional human capital challenge for OOC.

To address these concerns, we identify two matters for congressional consideration and make several recommendations to OOC. To help prevent the loss of critical organizational knowledge due to the impending loss of most of OOC's leaders, the Congress should consider amending the CAA to allow Board members to be reappointed by the Congress to an additional

term. In addition, the Congress should consider allowing OOC's Executive Director, General Counsel, and two Deputy Executive Directors to be reappointed to serve additional terms in either the same or a different position, if warranted and desired. This would enable, for the first time, the possibility of succession planning among these officials. However, any such reappointments should be contingent on the ability to clearly assess the performance of these officials and their achievement of OOC's goals. Towards this end, we recommend that OOC's Board require performance agreements for the Executive Director and General Counsel. The Executive Director and General Counsel, in turn, should actively engage their staff to build on and expand OOC's recent efforts in this area in order to develop a more robust and effective approach to individual performance management for all OOC employees.

OOC's Board of Directors, Executive Director, and General Counsel, in a joint response, all generally agreed with our recommendations and stated that OOC is making progress toward their adoption and implementation. Their written response is reprinted in appendix II.

## Background

Enacted on January 23, 1995, the CAA as amended, applies 12 federal civil rights, workplace, and labor laws to legislative branch employees who were previously exempted from such coverage.<sup>3</sup>

**Table 1: The 12 Civil Rights, Workplace, and Labor Laws Included under the CAA**

CAA-covered federal law	Summary of provisions
1. Title VII of the Civil Rights Act of 1964, as amended	Prohibits discrimination in hiring, promotion, and treatment of employees based on race, sex, color, religion, or national origin.
2. The Age Discrimination in Employment Act of 1967, as amended	Prohibits discrimination in hiring, promotion, and treatment of employees based on age.
3. The Rehabilitation Act of 1973	A precursor to the Americans with Disabilities Act; prohibits discrimination against qualified individuals with disabilities with regard to federal employment.
4. The Family and Medical Leave Act of 1993	Provides that employees may use unpaid leave for certain family and medical needs.

<sup>3</sup>Pub. L. No. 104-1, 2 U.S.C. §§ 1301-1438.

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CAA-covered federal law	Summary of provisions
5. The Fair Labor Standards Act of 1938, as amended	Provides for fair compensation for employees for work performed.
6. The Employee Polygraph Protection Act of 1988	Prohibits most private employers from requiring employees and prospective employees to take a polygraph examination.
7. The Worker Adjustment and Retraining Notification Act	Requires employers to provide advance notice of plant closings and mass layoffs.
8. Chapter 43 of title 38 of the U.S. Code (relating to veterans' employment and reemployment)	Provides reemployment rights for employees who serve in the uniformed services.
9. The Americans with Disabilities Act of 1990	Prohibits discrimination in hiring, promotions, and treatment of employees on the basis of disability; requires full and equal access to public accommodations for the disabled.
10. The Occupational Safety and Health Act of 1970	Requires employers to provide a workplace that complies with occupational safety and health standards.
11. Chapter 71 of title 5 U.S.C. (relating to federal labor-management relations)	Protects the rights and obligations of employers and employees in labor-management relations.
12. Veterans' Employment Opportunities Act of 1998	Provides hiring preferences for veterans.

Source: GAO presentation based on the CAA and laws referenced above.

By passing the CAA, the Congress extended to approximately 30,000 employees of the legislative branch certain fair employment and occupational safety safeguards. The CAA applies to current employees, applicants for employment, and former employees of the following organizations:

- Senate,
- House of Representatives,
- Capitol Guide Service,
- Capitol Police,
- Congressional Budget Office,

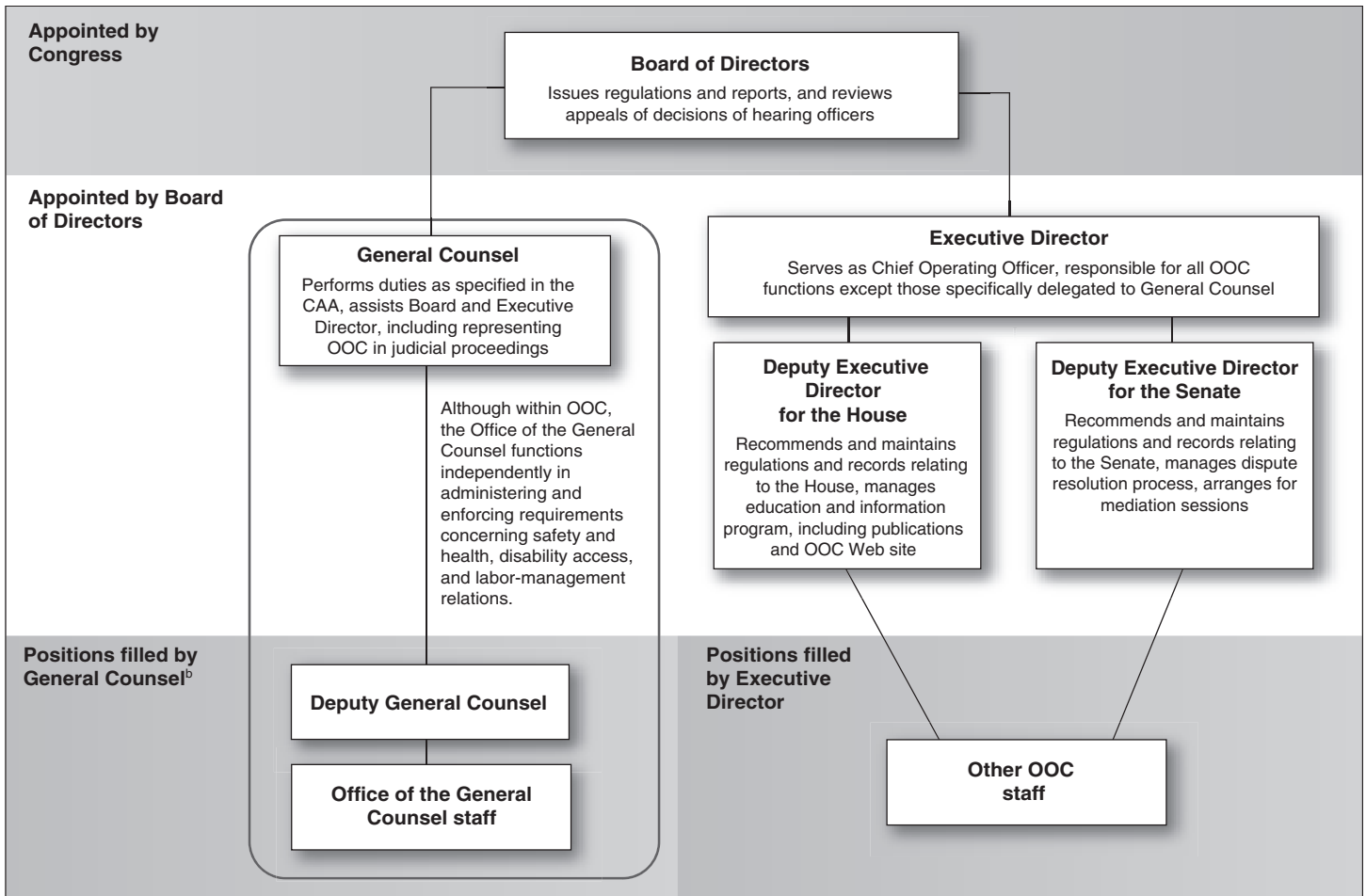
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- Office of the Attending Physician,
  - Office of the Architect of the Capitol, and
  - Office of Compliance.

The CAA did not include GAO, the Library of Congress (LOC), and the Government Printing Office (GPO) in many of its provisions because the employees at these organizations already enjoyed the protections of many of the civil rights laws extended to legislative branch staff by the CAA prior to its enactment. For example, GAO, LOC, and GPO employees were already protected against discrimination based on race, color, religion, sex, and national origin (42 U.S.C. § 2000e-16); discrimination based on age (29 U.S.C. § 633a); and discrimination based on disability (42 U.S.C. § 12209). In addition, GAO, LOC, and GPO employees already enjoyed the protections provided by the Fair Labor Standards Act (29 U.S.C. § 203) and by the Federal Service Labor-Management Relations Act (5 U.S.C. § 7103 for GPO and LOC employees; 31 U.S.C. § 732(e) for GAO employees). Furthermore, all three organizations have individualized processes for resolving employee disputes. For example, GAO uses an independent entity, the Personnel Appeals Board, to adjudicate employment disputes involving GAO employees.

The CAA does extend the protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, the Uniform Services Employment and Reemployment Rights Act, the Family and Medical Leave Act, the public access provisions of the Americans with Disabilities Act (ADA), and the Occupational Safety and Health Act to GAO and LOC employees.

OOC's duties are divided among a Board of Directors, an Executive Director, and a General Counsel, as shown in figure 1.

**Figure 1: Organizational Structure of the Office of Compliance<sup>a</sup>**



Source: GAO presentation based on OOC documents and the CAA.

<sup>a</sup>OOC's Executive Director, General Counsel, Deputy Executive Director for the Senate, and Deputy Executive Director for the House are statutory positions mandated by the CAA. The post of Deputy General Counsel as well as other OOC and General Counsel staff positions are not specifically required by the CAA.

<sup>b</sup>The CAA limits the General Counsel's hiring authority to attorneys with the General Counsel's Office. According to OOC's General Counsel, although the Executive Director is responsible for hiring occupational safety and health and ADA specialists who work with the General Counsel, it has been the practice at OOC that the Executive Director approves the General Counsel's hiring recommendations.

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The five-member Board of Directors has the duty of administering appeals for the CAA's dispute resolution process. Employees or employers covered by the CAA who are dissatisfied with the final decision resulting from a dispute resolution process hearing may request that the Board review the decision. From 1996 through 2003, the Board has heard 20 appeal cases. The Board is also responsible for appeals of decisions by hearing officers with respect to complaints filed by the General Counsel regarding occupational safety and health issues, disability access concerns, and labor-management relations violations.

The CAA also assigns the Board the duties of developing and issuing regulations to implement the rights and protections of employees for 9 of the 12 laws included in the CAA. The Board has issued regulations, which were approved by the Congress, for the Family and Medical Leave Act, federal labor-management relations provisions found in Chapter 71 of title 5 U.S. Code, the Fair Labor Standards Act, and Worker Adjustment and Re-Training Act. The CAA also provides that OOC may apply existing regulations promulgated by executive branch agencies for regulations not issued by the Board, except for regulations regarding labor-management relations. Before the Board's adopted regulations can become effective, they must first be placed in the *Congressional Record* for a comment period and must subsequently be approved by the Congress. The Board has delegated much of the work to complete these duties to OOC's Executive Director.

The Executive Director has overall responsibility for managing OOC's education and dispute resolution processes as well as directing OOC's staffing and budgeting functions. Reporting directly to the Executive Director are two deputies, to whom the Executive Director has delegated specific functional roles in addition to those identified in the CAA: the Deputy Executive Director for the House is responsible for managing OOC's education and information distribution functions, and the Deputy Executive Director for the Senate is responsible for administering OOC's dispute resolution process.

The OOC General Counsel's duties include investigation and enforcement of the Occupational Safety and Health Act and ADA requirements and managing labor-management relations unfair labor practice case processing and court litigation. Assisting the General Counsel is an attorney and an inspector detailed from the Department of Labor to investigate and enforce occupational safety and health standards with the assistance of part-time contractors on a limited basis.

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In summary, OOC's organizational structure has a leadership hierarchy with different top leadership functions shared among the Board of Directors, Executive Director, and General Counsel. This organizational structure of shared functions is largely due to statutory requirements that OOC carry out a variety of different roles—including adjudication, education, and enforcement—as it applies the 12 workplace laws covered by the CAA. In order to provide for a degree of needed independence between these different functions, the CAA established an organizational structure that, among other things, gave the Board the responsibility for hearing appeals of the dispute resolution process for cases that are initially within the province of the Executive Director or General Counsel.

While the CAA gives the Board of Directors the authority to appoint and remove OOC's four senior executives—the Executive Director, General Counsel, and two Deputy Executive Directors—the Board does not play an active role in the daily operational management of OOC. Instead, OOC's part-time Board focuses on its adjudicatory and policy functions including hearing appeals and issuing regulations. Although the CAA designates OOC's Executive Director as the organization's chief operating officer, the law provides the General Counsel with independent authority to investigate and enforce matters concerning occupational safety and health, disability access, and labor-management relations. In practice, this has resulted in a division of OOC by function, with the Executive Director responsible for hiring and managing staff to carry out the education and dispute resolution process functions and the General Counsel responsible for hiring attorneys and managing staff in his operational areas.

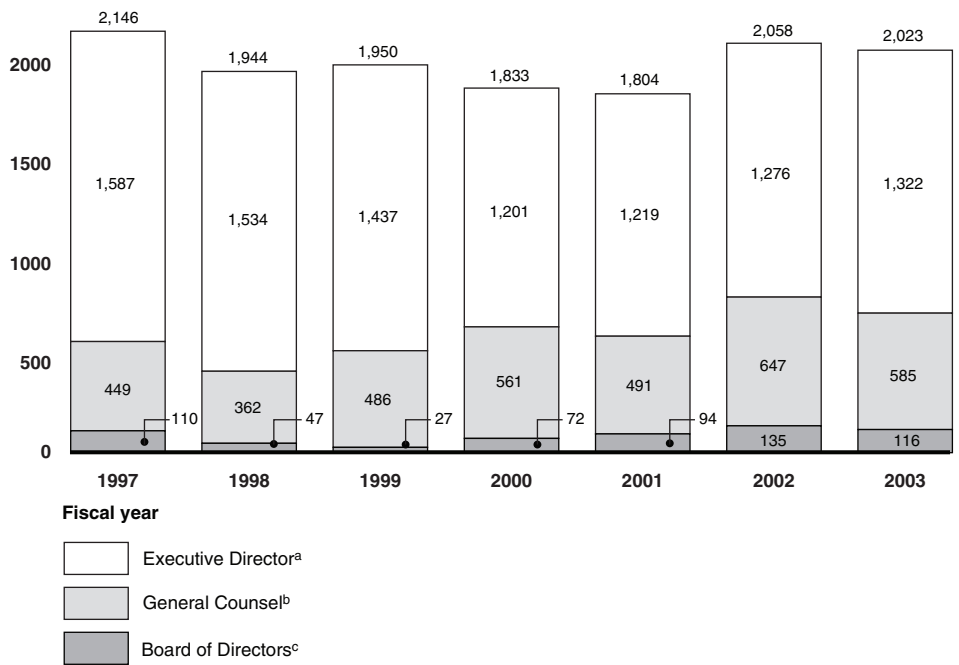
OOC is staffed by 15 employees, including 4 in statutorily appointed positions. As figure 2 shows, OOC's annual expenditures have ranged from a high of \$2.15 million in fiscal year 1997 to a low of \$1.80 million in fiscal year 2001. Fiscal year 2003 expenditures were \$2.02 million. In general, these expenditures are allocated between the duties performed by the Executive Director, General Counsel, and Board of Directors. Over the past 7 fiscal years, functions that are the responsibility of the Executive Director have accounted for most of OOC's expenditures.



**Figure 2: Expenditures for Fiscal Years 1997-2003 Covering OOC Functions under the Responsibility of the Board of Directors, Executive Director, and General Counsel**

Thousands of dollars

2500



Source: GAO presentation of OOC data.

<sup>a</sup>Executive Director: OOC's chief operating officer is responsible for all OOC functions except those specifically delegated to the General Counsel. These include OOC's education function and the administrative dispute resolution process as well as directing staffing and budget functions. The expenditures reported under this category also include officewide overhead costs such as information technology, utilities, and supplies.

<sup>b</sup>Office of General Counsel: Reports and manages compliance with occupational safety and health standards and disability access requirements, manages labor-management relations unfair labor practice case processing, court litigation, and obtains staff resources. The expenditures reported under the General Counsel do not reflect the salary of OOC's occupational safety and health inspector on long-term detail from the Department of Labor.

<sup>c</sup>Board of Directors: Hears appeals of the dispute resolution process, issues regulations and reports, and selects four statutory appointees to OOC management positions.

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## OOC Has Effort Under Way to Sharpen Focus on Results

Since August 2003, the OOC Board, its senior leadership team, and OOC's employees have been exerting a concerted effort—consistent with our suggestions—to more fully define the fundamental results, or outcomes, that OOC seeks to achieve. OOC's operations and reporting have traditionally been activity or output focused (e.g., number of requests for mediation received, time within phases of the process, and number of occupational safety and health inspections conducted). Such information is important to managing OOC and to ensuring that its scarce resources are efficiently targeted. However, the current Board and OOC leadership have undertaken OOC's first strategic planning initiative in recognition that despite the real value from output information, such data do not address the more fundamental question of the effectiveness of OOC's efforts. That is, OOC's current planning effort is intended to help OOC and its congressional and other stakeholders ensure that OOC's activities and outputs are optimizing the Office's contribution to results, such as a safer and healthier workplace and one free from discrimination and other forms of conflict. Our discussions with OOC stakeholders across the Congress and legislative branch agencies confirmed the need for and importance of the current planning effort.

Effective management control requires that an organization establish its organizational objectives in the form of a set of defined mission, goals, and objectives. Furthermore, we found that leading organizations consistently strive to ensure that their day-to-day activities support their organizational missions and move them closer to accomplishing their strategic goals.<sup>4</sup> Thus, OOC is not alone among organizations in seeking to answer critical questions about its overall effectiveness. Our assessments over the last decade of executive agencies' implementation of the Government Performance and Results Act (GPRA) have consistently found that executive agencies have struggled with shifting the focus of their management and accountability from outputs to results. At OOC's invitation, we have met with OOC's leadership to share our wealth of information and perspective on executive agencies' efforts under GPRA, as well as our own experiences in strategic planning, performance planning, and accountability reporting at GAO. While maintaining our respective

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<sup>4</sup>U.S. General Accounting Office, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996) and [GAO/AIMD-00-21.3.1](#).

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institutional independence, we are prepared to offer OOC continuing support as its planning efforts proceed.

OOC's planning initiative is important to ensuring that OOC's programs, activities, and limited resources are contributing to results that are making improvements in the work and work environments of legislative branch employees. OOC's efforts to achieve this goal are complicated by the inevitable tension that arises between organizations charged with the duty to implement and enforce regulations and the agencies subject to those regulations. Under the current draft of its strategic plan, OOC defines its mission as working to "advance safety, health, and workplace rights for employees and employers of the Legislative Branch as mandated by the Congressional Accountability Act." OOC is developing strategic objectives (goals) in three areas: effectively enforce and administer the CAA; educate, collaborate, and facilitate the regulated community; and maintain an efficient and accountable workplace (within OOC). More specifically:

- *Effectively enforce and administer the CAA:* Regulatory enforcement and administration focuses on operation of dispute resolution procedures and investigation and prosecution of alleged violations.
- *Educate, collaborate, and facilitate for our regulated community:* The Office will encourage and facilitate positive change in the employment cultures within the regulated community to stimulate compliance with the entire CAA; and effectively communicate with the Congress regarding the status quo and potential enhancement of the CAA.
- *Maintain an efficient and accountable workplace:* Efficiency involves not only careful and wise use of appropriated funds, but also continued utilization of resources in a way that allows for timely and expeditious completion of office activities and functions in order to better serve our regulated community.

OOC's effort to develop a results-oriented strategic plan is an important and positive development that is still very much a work in progress—as the Board and OOC's senior leadership clearly appreciate. Perhaps most important is OOC's recognition that its planning effort provides a vehicle for engaging and consulting with key congressional and other stakeholders on the fundamental purposes of OOC (strategic goals), how those purposes will be achieved (programs and strategies), how progress will be assessed (performance measures), and what progress is being made and improvement opportunities exist (accountability reporting). More

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specifically, as OOC's draft plan and our discussions with the Board and OOC's leadership have confirmed, OOC is committed to an approach that meets its statutory responsibility by adopting a more cooperative and collegial approach with legislative branch offices and agencies, while at the same time maintaining its enforcement capability and safeguarding its institutional independence. The planning effort underway provides the opportunity to reach agreement with key congressional and other stakeholders on the direction—and potential limits—of this new commitment.

OOC has held a series of discussions with selected congressional stakeholders and plans additional outreach with them and other stakeholders as the planning effort moves forward. In fact, as we have found by looking at leading results-oriented organizations, the production of the actual strategic planning document is one of the least important parts of the planning process. Leading results-oriented organizations understand that strategic planning is not a static or occasional event, but rather a dynamic and inclusive process. By working with and actively engaging key congressional and other stakeholders in its planning effort, OOC can better justify to stakeholders its current budget and staff resources allocation and program efforts then, as appropriate, OOC can build a business case for additional resources and new initiatives that OOC leadership may believe are necessary for an agreed-upon mission and set of strategic goals.

In short, if done well, strategic planning is continuous and provides the basis for everything that the organization does each day. Moving forward, OOC plans to align key programs and strategies with each of these objectives. In that regard, OOC managers have begun drafting several work plans intended to link OOC's programs and activities to the strategic objectives contained in the draft plan. Similar to the strategic plan, these work plans are still in draft and therefore do not yet provide a clear linkage between OOC's strategic objectives and the day-to-day operations of these functions.

OOC's strategic planning also needs to include the development of results-oriented performance measures. OOC is committed to this effort and has "place-markers" in its draft plan for these measures. OOC could benefit from considering the experiences of leading organization in results-oriented performance measurement. Results-oriented organizations we have studied, which were successful in measuring their performance, developed measures that were:

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- tied to program goals and demonstrated the degree to which the desired results were achieved,
  - limited to the vital few that were considered essential to producing data for decision making,
  - responsive to multiple priorities, and
  - responsibility-linked to establish accountability for results.<sup>5</sup>

Similar to decisions about strategic goals, determining the appropriate set of performance measures should also be based on input from key stakeholders to determine what is important to them to determine OOC's progress and assess its performance. Put most directly, agreed-upon performance measures are the key to providing the Congress with the data it needs to answer a key question that the current fiscal environment is demanding of all agencies across the federal government: "What are we getting for our investment in this agency, and is it worth it?"

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## OOC Is Beginning to Integrate Information Technology Planning into its Strategic Plan

OOC officials said that they are committed to making better use of IT in the future, and to ensuring that doing so is accomplished in a prudent and systematic fashion. For example, OOC's draft strategic plan cites "fully leveraging IT to complement and expand office activities" as one strategy under its "maintain an efficient and accountable workplace" goal.

OOC has begun to take some action, but much remains to be accomplished. For example, it established an Information Technology Task Force in May 2003, and consistent with our suggestions to OOC leadership, the task force has been charged with developing parallel IT strategies: one addressing near-term, stay-in-business IT needs and the other addressing long-term IT modernization needs. Thus far, the task force has met numerous times and has been guided in this initiative by a private consultant. It has also, for example, reviewed the current IT environment and has surveyed OOC staff about IT needs and preferences.

With respect to near-term needs, OOC is taking steps to address immediate shortfalls in its ability to produce the information it needs to manage

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<sup>5</sup>[GAO/GGD-96-118](#).

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current operations and workloads. For example, OOC is investing a few weeks of staff time to create a new Access database to provide a temporary solution to meet certain case-tracking information needs. In our view, such relatively small, low-risk investments that provide immediate mission value are appropriate near-term steps.

However, before pursuing strategic, modernized system solutions, it is important that OOC first position itself for successfully doing so by establishing certain basic IT management capabilities. These capabilities include, among other things, developing a picture or description, based on OOC's strategic plan, of what it wants its future IT environment to look like, putting in place and following defined and disciplined processes for allocating limited resources across competing IT investment options, employing explicit and rigorous IT system acquisition management processes, and ensuring that needed IT human capital knowledge and skill needs and shortfalls are identified and systematically addressed. According to OOC officials, each of these areas will be addressed. If they are not, the risk of being unable to effectively leverage technology in achieving strategic mission goals and outcomes will be increased.

OOC's current use of IT is limited. For example, OOC's automated administrative dispute resolution case tracking system does not have the capability to notify system users when a case closes or should be closed. OOC's system manager said they must periodically review some cases manually and update the system for closed cases. OOC officials told us that they had experienced some data quality problems during early implementation stages of the dispute resolution case tracking system, but had tested the system in March 2003 to determine if corrective actions were effective. According to OOC officials, the data accuracy test demonstrated that the information was now reliable, although they said the test was performed informally and they had no documentation on the methodology and the test results. We performed our own independent test of data quality for this system as part of this review and found that the data were sufficiently reliable for the purposes of this report. (See app. I for additional information on our reliability and validity reviews of OOC's database.)

OOC also recognizes the need to make better use of IT when enforcing the Occupational Safety and Health Act-related provisions of the CAA. For example, OOC's Office of the General Counsel is considering the purchase of specialized IT software that would centralize and automate a variety of tasks concerning the occupational safety and health-related cases it

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handles, including assessing risk, monitoring case status, and tracking agency abatement efforts. In November 2003, after meeting with us to discuss best practices in IT acquisition and planning, OOC's General Counsel established a group to develop specific selection criteria to assess potential IT case management software. As part of this process, the group and an outside IT consultant gathered information from both legislative and executive branch agencies including the Architect of the Capitol (AOC), LOC, and the Occupational Safety and Health Administration (OSHA) concerning their practices and experiences with similar IT applications. OOC expects to complete this evaluation process by the end of March 2004.

In regards to the accounting and budgeting system used by OOC, a 2003 audit by an independent accounting firm of LOC's financial statements found that the system was reliable. LOC administers the accounting and budgeting system and the accounting firm's findings were addressed to LOC. Although the auditors reported the system was, overall, reliable, they also reported that there were two IT-related deficiencies that could adversely affect the user's ability to meet its financial management objectives. The deficiencies were that (1) security practices over IT systems need to be improved and (2) LOC needs to establish a comprehensive disaster recovery program to maintain service continuity, minimize the risk of unplanned interruptions, and recover critical operations should interruptions occur. The audit recommended that the LOC address these deficiencies as a high priority. LOC officials acknowledged the need to address these deficiencies and have taken some preliminary actions including drafting an officewide policy on IT security practices and acquiring an off-site facility for their disaster recovery program.

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### Strategic Planning Provides Opportunity for More Useful Annual Reports

As required by section 301(h) of the CAA, OOC issues an annual report that contains "statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this Act and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint."

Based on our reviews of the reports issued thus far, OOC is meeting this annual report requirement. However, the information is almost entirely

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output based, providing little sense of OOC's broader impact. Most of OOC's congressional stakeholders with whom we spoke were not familiar with OOC's annual reports and those congressional stakeholders who had seen the report said that it was difficult to understand and could be more user-friendly. For example, one congressional stakeholder said that it was difficult to make decisions about OOC using the information contained in the annual report.

As an outgrowth of its strategic planning effort to identify, measure, and manage toward results, OOC can enhance its annual report and incorporate elements that would make it a more useful and relied-upon accountability report. New, results-oriented information, showing the extent to which goals were met and suggesting improvement opportunities—including those that may suggest the need for congressional concurrence or actions—could be reported along with the activity and workload statistics required in section 301(h) of the CAA.

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## Recommended Next Steps

Building on the strategic planning efforts underway, we recommend that the Board of Directors, Executive Director, and General Counsel of OOC ensure that the planning effort:

- Is developed with extensive collaboration and input from key congressional and agency stakeholders to ensure that there is a reasonable and appropriate degree of agreement concerning OOC's overall direction and that its programs are effectively coordinated with other efforts. To be most effective, this stakeholder and agency input should be part of an ongoing dialogue to ensure goals, objectives, and strategies are adjusted as warranted.
- Includes performance measures that are linked to the strategic plan and resulting annual work plans.
- Becomes the basis for OOC's budget and staff requests and developing and implementing program efforts and for assessing the contributions of those efforts to results.
- Makes information technology planning and implementation an integral component of the process.
- Is used as a basis for an augmented and more results-oriented annual report that provides data on the degree to which key goals are being



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achieved, in addition to meeting important statutory reporting requirements.

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## Ensuring an Effective Program Structure

Our work looking at leading organizations has often found that as organizations shift their orientation from outputs and activities to the results that those outputs and activities are intended to achieve, new, different, and more effective ways of doing business will emerge.<sup>6</sup> OOC is in the midst of just such a shift in its orientation as was discussed earlier in this report. This shift entails putting in place a program structure at OOC that meets its statutory responsibilities, contributes to improvement in the working environment and workplaces of legislative branch employees, and safeguards OOC's independence.

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## OOC's Functions and Workload

The CAA contains a series of specific requirements for OOC to meet as it carries out its responsibility to administer and enforce the CAA. Towards this end, OOC has taken a number of actions including establishing and administering a dispute resolution process for employees who allege violations of civil rights, labor, and employment laws covered by the CAA; conducting investigations and periodic inspections of legislative branch facilities to ensure compliance with safety, health, and disability access standards; adopting substantive regulations, many of which have been approved by the Congress, to apply covered laws to the legislative branch; educating both employees and employing offices about their rights and responsibilities under the law; and regularly reporting to the Congress on its activities in a variety of required reports and studies.

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## Dispute Resolution

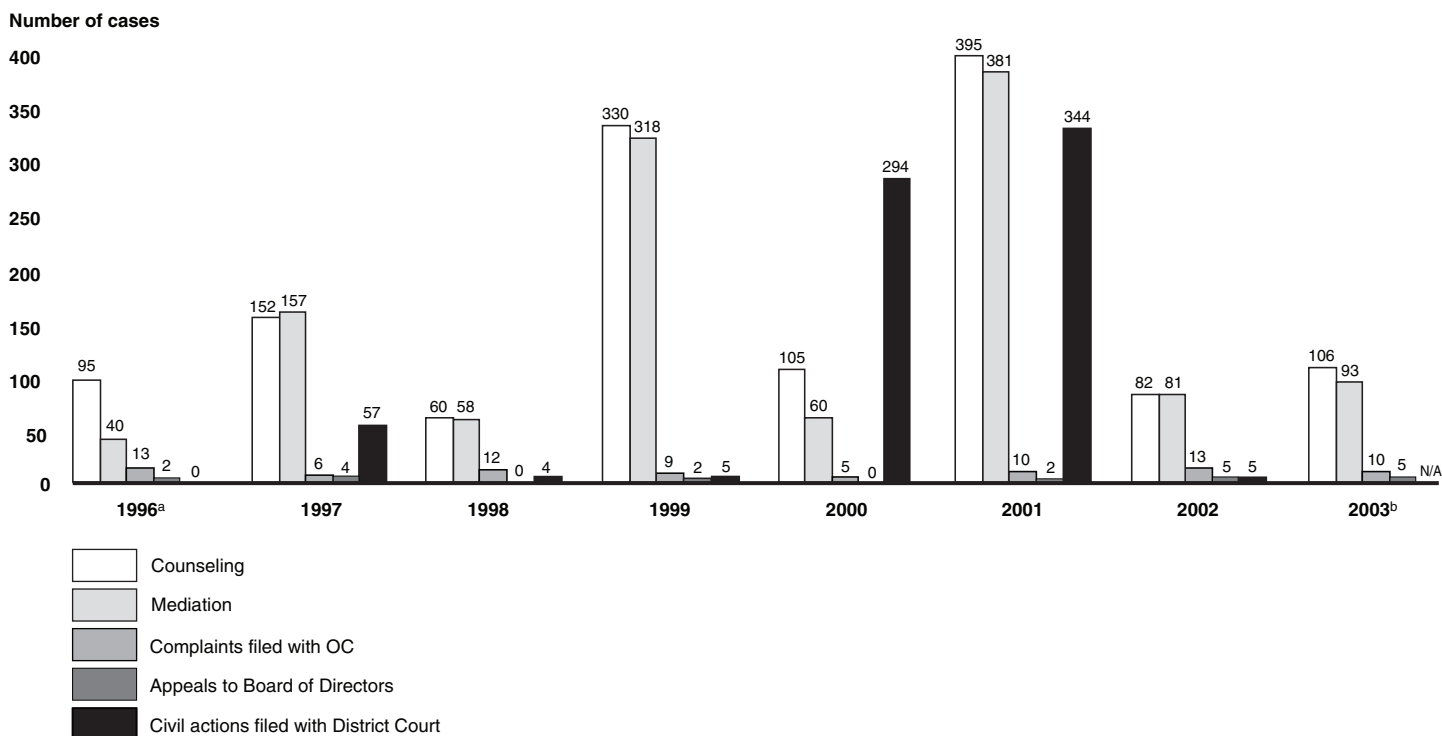
Dispute resolution is the largest of the functions performed by OOC, available to any legislative branch employee in an agency covered under the CAA's dispute resolution provisions who alleges violations of certain sections of the CAA. OOC's dispute resolution process consists of a series of statutorily prescribed steps beginning with counseling and mediation. If these actions fail to resolve the dispute, the employee may choose to either file a formal complaint with OOC and proceed with an administrative hearing before an independent hearing officer, or file suit in federal court. Both employees and covered legislative agencies that are dissatisfied with

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<sup>6</sup>[GAO/GGD-96-118](#).

the decisions of their administrative hearings may appeal to OOC's Board of Directors.

**Figure 3: Dispute Resolution Cases, by Stage, Reported by OOC for 1996-2003**



Source: GAO presentation of OOC data.

<sup>a</sup>Data for 1996 covers January 23–December 31.

<sup>b</sup>Data for 2003 covers January 1–December 9.

Note: The number of cases closed in a given year may not equal the total number of cases identified in each of the other categories for that year because of other factors including cases carried over from previous years.

OOC told us that the large jumps in the number of cases in the dispute resolution system in 1999, 2000, and 2001, were the result of two single-issue large group requests involving employees from AOC and the United States Capitol Police (USCP) as they worked their way through the process. For example, 274 (or almost 70 percent) of the 395 requests for

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counseling reported in 2001 pertained to a single USCP large group case. Similarly, 272 of the cases that were closed that same year and were reported as resulting in civil actions being filed with the district court were also associated with this same single-issue group request. In fact, OOC cites the absence of such group cases in its annual report to the Congress on the use of the Office when describing the significant decrease in total requests for counseling received in 2002.

These cases illustrate that OOC's approach to reporting case activity does not provide a complete picture of OOC's workload since it reports each individual included as part of the large group as an individual request regardless of whether the individual personally requested or even participated in services such as counseling or mediation. OOC could not provide us with a specific number of the individuals included in these group requests who actually received counseling or mediation services in 1999 or 2001. According to OOC, dispute resolution data is presented in this manner because the CAA specifically requires the Office to report on the total number of individuals requesting counseling or mediation. While this information is needed to meet existing statutory reporting requirements, other data, such as the actual number of counseling and mediation sessions held, could provide a helpful complement to the data which OOC currently reports, as well as a more useful indicator of its actual workload.

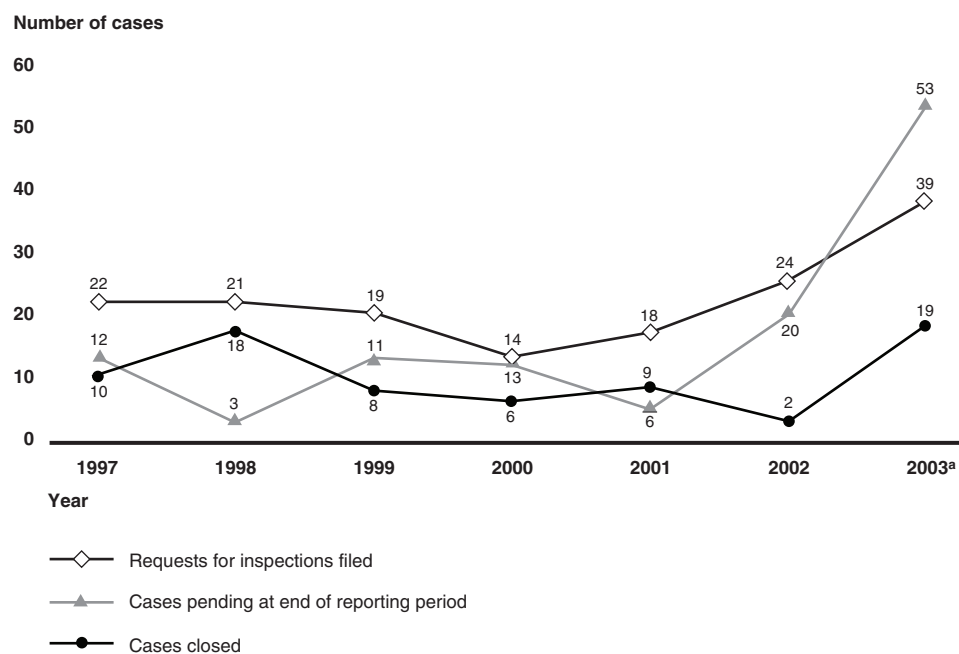
In addition to rethinking how it might supplement the way it currently reports on single-issue large group requests, OOC should consider other potential improvements on how it measures its activities and workload. Such improvements can play an important role in helping organizations both obtain a fuller understanding of the process and implications of its activities as well as provide stakeholders with more transparent and complete information. OOC is exploring options in this area and we have offered our assistance in this regard. One possibility would be for OOC to benchmark its data against that reported by other federal agencies, when comparable measures exist, or against OOC's own past performance when such measures do not. For example, following the practice of the U.S. Equal Employment Opportunity Commission (EEOC), OOC might consider using such benchmarks to set both long- and short-term performance targets.

Occupational Safety and Health,  
Disability Access, and Labor-  
Management Relations

The CAA assigns OOC's General Counsel with a number of independent investigative and enforcement functions related to ensuring occupational health and safety, disability access, and labor-management relations.

**Occupational safety and health.** Enforcement of occupational safety and health standards accounts for the majority of the time spent by the General Counsel and his staff, and roughly 30 percent of OOC's overall workload. The CAA requires the General Counsel to perform this work in two basic ways: (1) by conducting inspections and investigations of potential hazards in response to requests by any covered employee or employing office and (2) by performing periodic inspections of the facilities of all entities covered by the act.

**Figure 4: Health and Safety Cases Reported by OOC for 1997-2003**



Source: GAO presentation of OOC data.

<sup>a</sup>Data for 2003 covers January 1–December 9.

Any covered legislative branch employee can file a complaint requesting the General Counsel inspect and investigate a possible health and safety hazard. As shown in figure 4, the annual workload of requested inspections has risen dramatically since 2000, from 14 in 2000 to 39 in 2003 (as of December 9, 2003). The General Counsel's resources, however, have not kept pace with this growth. The General Counsel's financial expenditures increased by less than 5 percent from fiscal year 2000 to fiscal year 2003. In

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addition, during this same period the number of full-time staff assigned to conduct the actual workplace health and safety investigations remained steady at a single individual, an OSHA workplace safety specialist assigned to OOC from the Department of Labor on long-term detail, with the assistance of part-time contractors on a limited basis.

OOO also enforces health and safety regulations by conducting periodic inspections of the facilities of all covered entities at least once each Congress, as required by the CAA. These inspections are scheduled ahead of time with legislative agencies and resemble the “walk around” inspections conducted by OSHA. In contrast to most other CAA requirements, OOC is not fully in compliance with the CAA requirement that it “conduct periodic inspections of all facilities” of the agencies covered by the provision.<sup>7</sup> Although OOC conducted periodic inspections at the majority of facilities in the Washington, D.C. area including large structures such as all Senate and House office buildings and the U.S. Capitol building, OOC did not include 10 out of 46 facilities subject to its jurisdiction in its last biennial inspection in 2002. For example, according to documents provided by OOC, the Office did not perform safety and health inspections at the Senate or House page dormitories, or at LOC’s National Library Service for the Blind and Physically Handicapped. OOC officials told us that the decision not to inspect these facilities was largely due to resource constraints.

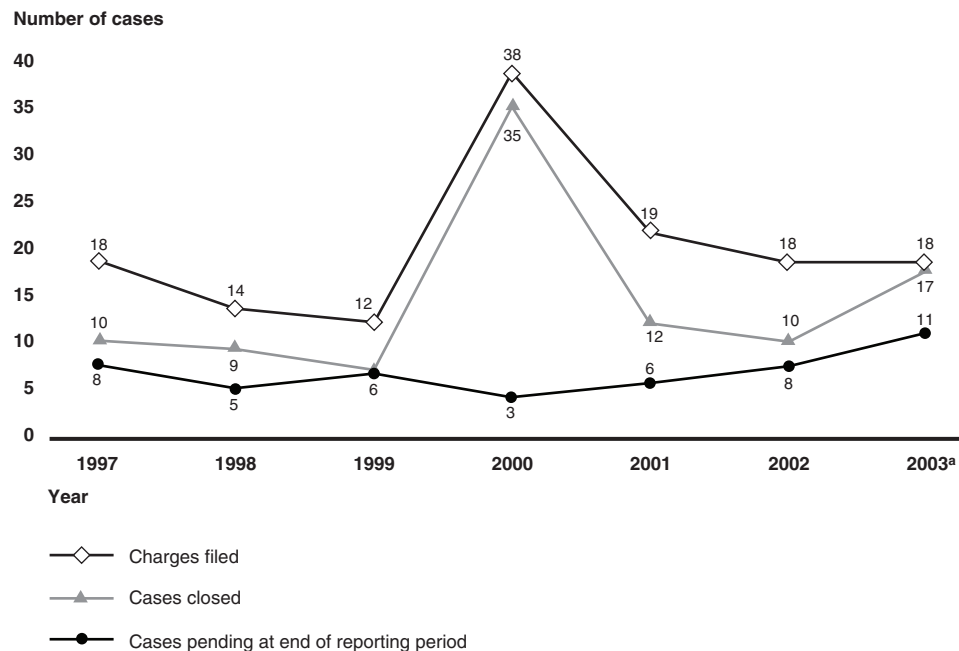
**Disability access.** The CAA requires the General Counsel to both conduct investigations of charges alleging discrimination in public services and accommodations on the basis of disability, and to inspect covered facilities in the legislative branch at least once each Congress for compliance with the public services and accommodations provisions in the ADA. From 1997 through December 9, 2003, five charges of discrimination have been filed with the General Counsel. According to OOC documents, its biennial inspections have included all public areas where constituents, individuals on official business, and visitors have access—approximately 8 million square feet of space.

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<sup>7</sup>This includes all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Library of Congress, and the General Accounting Office. See 2 U.S.C. § 1341(e)(1).

**Labor-management relations.** Under the CAA, OOC's General Counsel is responsible for investigating charges of unfair labor practices and for filing and prosecuting complaints in administrative hearings and before the Board of Directors as appropriate. Since 2001, the number of charges filed with the General Counsel has remained fairly constant, varying between 18 and 19 per year, as shown in figure 5. In 2000, OOC experienced a sharp spike in charges filed with the number jumping to 38 in that year. OOC was unable to provide a definitive reason for this increase, but told us that it was probably related to the large group cases going through OOC's dispute resolution process as these cases raised issues that could relate to charges of unfair labor practices. Despite the relatively stable number of new unfair labor practice charges received by OOC since 2001, the backlog of cases still pending at the end of the year has almost doubled, increasing from 6 in 2001 to 11 in 2003 (as of December 9, 2003).

**Figure 5: Unfair Labor Practice Charges Filed Reported by OOC for 1997-2003**



Source: GAO presentation of OOC data.

<sup>a</sup>Data for 2003 covers January 1–December 9.

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OOO's Executive Director is responsible for a variety of other functions relating to labor-management relations including supervising union elections and resolving issues involving such matters as good faith bargaining. OOC has supervised 14 union elections since 1997, 12 of these in 2000 or earlier.

Another duty of the General Counsel under the CAA is to represent OOC in any judicial proceeding under the act, including cases before the U.S. Court of Appeals for the Federal Circuit.<sup>8</sup> In past years, the number of such cases has been low, with no cases filed in 1997, 2001, and 2002 and one case each filed in 1998, 1999, and 2000. However, in 2003 the number of federal circuit review cases involving OOC and requiring attention from the General Counsel and his staff unexpectedly increased to six. OOC's General Counsel told us that this situation has been exacerbated by the loss of two attorneys during 2003, reducing his previous staffing level of four full-time OOC attorneys to only two, including the General Counsel, by December 2003. According to the General Counsel, his office is currently recruiting for a staff attorney and he expects to have that individual hired by spring of 2004.

## Education and Information Distribution

OOO has a broad mandate under the CAA to provide education and information to the Congress, employing offices, and legislative branch employees about their rights, protections, and responsibilities under the act. To this end, OOC uses a variety of approaches including distributing written material such as home mailings, fliers, bulletins, fact sheets, and reports; conducting briefings with new staff at agency-sponsored orientation sessions; holding seminars at the offices of stakeholders and legislative agencies; maintaining a Web site and information number; and responding to direct inquiries. More recently, OOC's education efforts have made increased use of technology including a redesign of its Web site to make it more user friendly and increased use of resources such as electronic news bulletins and online tools such as its interactive template for creating an emergency action plan.

Despite such potentially promising initiatives, OOC's current approach to tracking and reporting on its education efforts—its Education Program Year End Report—remains firmly focused on counting products and activities rather than focusing on results. Other approaches such as conducting feedback surveys and focus groups could provide OOC with

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<sup>8</sup>See 2 U.S.C. § 1382(c)(3).

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valuable mechanisms to increase its understanding of the actual level of awareness specific target populations have of its programs and activities. OOC can then use this knowledge to assess its effectiveness in actually communicating its message rather than simply its diligence in distributing documents.

Developing appropriate performance measures has the potential to help OOC realize several significant benefits such as improving its ability to understand and track its process toward achieving goals, giving managers crucial information on which to base their organizational and management decisions, and creating powerful incentives to influence organizational and individual behavior. Of course, the benefits of such improvements will need to be balanced against real-world considerations, such as the cost and effort involved in gathering and analyzing performance data, and the burden such data collection may present for stakeholders and covered employees.

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### Opportunities to Strengthen OOC's Effectiveness by Ensuring Programs Are Aligned with Results

We have previously reported that as agencies develop information systems and capacities for analysis and evaluation, they discover that having a better understanding of the facts and the relationship between their activities and desired outcomes provides them with a solid foundation for focusing their efforts and improving their performance.<sup>9</sup> Facing an increasing workload and scarce resources, OOC's leadership has begun the process of asking these questions in an effort to find more effective ways in which to do their work.

OOC's senior leadership has expressed a willingness to explore opportunities to develop the technical and analytical capacity needed to more effectively work toward results. For example, over the last several years OOC has used a variety of methods for tracking and recording summary information on its occupational safety and health related caseload in order to manage its work in this area. These systems were generally basic in design and ranged from several incompatibly designed databases to using simple tables in a word processor to keep track of cases.

None of these approaches provided the General Counsel and his staff with an easy way to systematically examine the approximately 50 open requests

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<sup>9</sup>[GAO/GGD-96-118](#).



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for health and safety investigations, or the hundreds of inspections and investigations conducted by OOC in the past, to look for patterns and identify possible common or underlying causes of potential workplace hazards. Toward this end, OOC is exploring the possibility of acquiring a specialized regulatory case-tracking database application that would enable the General Counsel and his staff to take a more strategic and risk-based approach towards their work, including such decisions as assigning cases, determining the appropriate amount of follow-up required, and informing the selection of particular facilities for its biennial inspections. Until OOC decides on whether, and which, permanent case-tracking software system it may adopt, staff in the General Counsel's office have been developing a new Microsoft Access database intended to offer a short-term solution to OOC's need to more effectively track basic information related to its occupational safety and health related caseload, such as case type, key dates, principal parties involved, and actions planned and accomplished. According to the General Counsel, this system should be operational in January 2004.

Ensuring that an organization is focusing on the right activities to effectively achieve its goals is always an important part of good management control. However, focusing on the right activities is especially important in times of economic scarcity, when the benefit of having programs that deliver a maximum impact towards achieving results is particularly critical. For example, in light of increasing demands for safety and health inspections, and the very small number of OOC staff available to conduct those inspections, OOC's General Counsel and his staff have begun to explore possible approaches to leverage OOC's limited resources through constructive engagement with legislative agencies. This approach seeks to obtain agency compliance with occupational safety and health requirements by motivating them to do so out of a sense of common purpose and mutual benefit rather than forcing them with the threat of punitive citations.

Toward this end, in February 2004 OOC will sponsor its first-ever Organizational Health and Safety Program Conference. The conference will bring together congressional and agency staff involved in health and safety issues from throughout the legislative branch in order to learn about recent thinking and practice in workplace health and safety and to discuss issues of mutual concern. The conference will include presentations by outside safety experts from a variety of organizations from the legislative branch and elsewhere. Tentatively scheduled presenters include representatives from AOC, organized labor, OSHA, and the National Safety Council.

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The recent experiences of AOC provide another example of the potential benefits of sharing lessons learned concerning health and safety practices. AOC is undertaking a major effort to augment and make more strategic its approach to worker safety and health.<sup>10</sup> This effort obviously has important implications for AOC and its employees. Equally important, by sharing AOC's experiences and leveraging its efforts in such areas as incident reporting and follow-up and risk mitigation, AOC's efforts can potentially have great value across legislative branch agencies. Building on this idea, OOC should explore the possibility of playing a more active role as a central repository for good practices developed by agencies throughout the legislative branch on topics covered under the CAA.

OOO's recent experience with USCP to offer fire safety training for its officers provides a lesson in the importance of carefully targeting such initiatives to the intended audience. The impact of OOC's initiative may be somewhat limited until OOC develops a deeper understanding of what would make this type of supplemental training useful in the view of USCP's management and officers. Specifically, a senior USCP official who was directly aware of this effort informed us that although the training contained some good material, it was not sufficiently tailored to USCP to be very useful.

The value of thinking about outcomes and the relationship between activities and outcomes can also help OOC make determinations about whether it is providing the right mix of services and activities to achieve its overall goals. For example, until recently OOC's education efforts have been largely focused on activities such as sending mass mailings of written material to the homes of legislative branch employees, distributing fliers and bulletins to legislative agencies for subsequent distribution, and conducting general information sessions for new employees. Moreover, OOC's education efforts would benefit from better analysis of the types of complaints that have been made. As noted above, OOC tracks the number of cases it handles and how they proceed through established processes. It does not, however, currently gather data on the nature of complaints. While protecting the confidentiality of OOC's case files must continue to be of primary concern, OOC could also seek ways to examine if common issues

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<sup>10</sup>U.S. General Accounting Office, *Architect of the Capitol: Status Report on Implementation of Management Review Recommendations*, GAO-04-299 (Washington, D.C.: Jan. 30, 2004).

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are being raised. Such information could prove very valuable in targeting OOC's education efforts.

In addition, OOC's current leadership team recognizes the importance of looking for new ways to get information about the CAA and OOC out to employees. They are also experimenting with new approaches such as posting e-bulletins and other ways to use the Internet creatively. On the basis of our work, ample opportunities exist for continued progress in this area. For example, in our conversations with congressional stakeholders, representatives from the Senate Administrative Office Managers Group told us that they would welcome additional contact with OOC. These Senate office managers are senior staff responsible for working with Members to ensure the efficient and effective operation of each member's personal office. As such, office managers are key clients of OOC. Office managers meet periodically to discuss issues of mutual interest and concern—an ideal opportunity for OOC outreach. However, representatives from the Senate Administrative Office Managers Group told us that they had not had contact with OOC for several years. OOC should consider whether there are similar groups that it might reach out to as part of its effort to establish consistent and ongoing relationships with its clients.

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## Recommended Next Steps

We recommend that OOC's Executive Director and General Counsel:

- identify potential improvements to how the Office measures its activities and performance, including the possibility of using benchmark data from federal agencies with similar functions for purposes of comparison and analysis;
- provide a more complete picture of OOC's workload by improving how it tracks and reports on single-issue large group requests for counseling and mediation;
- work with the Congress to develop a strategy to ensure that all facilities under OOC's jurisdiction and located in the Capitol Hill complex and the surrounding Washington, D.C. area—including the Senate and House page dormitories, and LOC's National Library Service for the Blind and Physically Handicapped—are covered as part of the biennial safety inspections required by the CAA;

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- establish a clearinghouse for sharing best practice information on topics covered by the CAA;
  - work with the Congress to determine the feasibility of using such mechanisms as feedback surveys and focus groups to provide valuable information on the actual level of awareness among target populations concerning OOC's programs and activities;
  - outreach to other groups and forums such as the Senate Administrative Managers-Chief Clerks Steering Committee;
  - use data on the number and type of complaints received by OOC to better target education and information distribution efforts; and
  - develop capacity to use safety and health data to facilitate risk-based decision making.

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## Building Effective Communication Emphasizing Outreach and Coordination

Effective communication and coordination with both stakeholders and clients is essential for organizations to operate effectively, manage risks, and achieve results. We have previously identified the ability of federal agencies to engage in relevant, reliable, and timely communication relating to internal and external events as fundamental for effective management control.<sup>11</sup> At OOC, an effective communications strategy could provide a powerful tool to seek mutual understanding among OOC, key stakeholders, and legislative agencies concerning its mission and role, convey OOC's recent initiatives and improvement efforts, obtain information about the external environment that may affect the Office's ability to achieve its mission, as well as build up trust among the stakeholders and clients that is necessary for the Office to realize its goal of becoming more collaborative and partnerial.

OOC has recently undertaken a number of important initiatives to improve communications and coordination. Consistent with, and building upon those initiatives, we identified two specific areas where OOC can continue to make improvements in the way in which it communicates with other entities and organizations including:

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<sup>11</sup>[GAO/AIMD-00-21.3.1.](#)

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- ensuring clear, regular, and timely consultation with congressional stakeholders; and
  - communicating and coordinating with agencies openly and effectively.

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## Ensuring Clear, Regular, and Timely Consultation with Congressional Stakeholders

A key component of an effective communications strategy is communicating with, and obtaining information from, external stakeholders.<sup>12</sup> OOC's leaders recognize the importance of communicating with stakeholders and have taken steps to expand their efforts in this area. However, our interviews with a wide range of congressional stakeholders, including majority and minority staff in both the Senate and the House, indicate that OOC's efforts to effectively consult with the Congress have been uneven and additional efforts are needed.

On the one hand, some congressional staff—but by no means all—told us that they believed OOC has made efforts to develop more transparent and collegial working relationships with congressional stakeholders. For example, a congressional staff member cited the efforts of OOC's General Counsel to reach out to congressional staff shortly after he joined the Office in May 2003. Another staff member cited an example where OOC worked constructively with his office to resolve a potential fire safety problem involving the placement of furniture. This staff member appreciated OOC's willingness to discuss the issue with his office and work to find a satisfactory solution that would both comply with safety requirements and take into account the need of his office to continue to conduct business and the physical limitations of the space involved.

On the other hand, a number of staff, including some who acknowledged and appreciated OOC's recent efforts, said that they remained unclear about the office's role and services, how it makes decisions, and related matters. Moreover, several congressional staff members told us that they have not seen much outreach from OOC, or that the outreach they did experience was inconsistent and could be more effective. For example, one individual told us that he only received information from OOC when it was interested in proposing a legislative change that would require the cooperation of the Congress. Another concern cited by several staff was the perception that OOC did not make an effort to ensure that they were

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<sup>12</sup>[GAO/AIMD-00-21.3.1.](#)

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informed “at the front end” concerning significant activities and initiatives. Thus, the concern is not so much the existence of OOC’s operating procedures. Rather, the concern is communication as those procedures are being applied and OOC undertakes its daily operations.

Effective communications strategies take into account how to most effectively communicate the message given their intended audience. For example, in September 2003 OOC initiated a formal rulemaking process to amend parts of its operating procedures. As required by the CAA, OOC’s Board of Directors submitted an announcement for inclusion in the *Congressional Record* announcing proposed changes in OOC’s procedural rules and inviting comment. A key staff member said that it would have been more helpful—and could have avoided, or at least limited, subsequent concerns with the process used to issue the draft rules—if OOC had more fully reached out to key committees and Members before the draft proposal was announced publicly. Another staff member told us that, at a minimum, it would have been helpful if OOC followed the notice by contacting them directly to ensure that they were aware of the proposed rules and the subsequent 30-day comment period, explaining that such announcements are easy to miss if one is not looking for them. Although OOC’s initial posting met its legal obligations, the Office decided to place another notice and extend the comment period.

To encourage additional feedback from stakeholders and other interested parties, OOC’s Board decided to hold a public hearing on the proposed changes even though the CAA does not require it. According to OOC, the decision to hold the hearing was consistent with feedback OOC had received several years earlier from some congressional stakeholders. However, instead of creating an opportunity for stakeholders to provide additional feedback, the Board had to cancel the session because only one person had agreed to speak at the hearing. Congressional staff told us that the Congress’ lack of participation in the hearing was not an indication of a lack of interest in the issues to be discussed, but was due to concerns about the nature and structure of the forum. OOC had not informed congressional staff of its intention to seek additional comment in this way. Moreover, one congressional stakeholder said that OOC’s approach to solicit additional comments through a public hearing was inappropriate.

Communication protocols provide a potentially valuable tool that organizations can use to avoid such surprises and help foster clearer understanding with stakeholders. For example, after working closely with the Congress and after a trial phase, GAO implemented congressional

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protocols in November 2000.<sup>13</sup> From our experiences in developing the protocols, we have identified key lessons and success factors—that developing protocols is a time-consuming process which involves (1) personal commitment and direction from the agency head, (2) senior management participation and buy-in, and (3) continuous outreach to and feedback from external stakeholders. Despite the time and the effort, however, our experience using protocols as a transparent, documented, and consistent way to set priorities has been very positive for us as well as our congressional clients. Similarly, for OOC such protocols could help foster an understanding of its goals, functions, and procedures with its congressional stakeholders.

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## Communicating and Coordinating with Agencies Openly and Effectively

Open and effective coordination with legislative agencies and other stakeholders including employee groups is another critical component of an effective communications strategy at OOC. We have previously reported that organizations can develop and refine their operations and better achieve results by establishing channels that facilitate open and effective communication with clients and other recipients of their services and activities.<sup>14</sup>

Several officials at legislative branch agencies covered by the CAA told us that at points over the more than 8 years since OOC's has been in operation, communications and interactions among the Office and their agencies have not been good. These agency officials told us that some of OOC's past actions had created distrust and had fostered the belief among some staff that OOC was more interested in making them look bad (by using a “gotcha” approach) rather than working with agencies to comply with the CAA and create a better workplace. In contrast, the union groups we met with generally characterized their interactions with OOC as positive throughout this period.

OOO's Board and leadership are aware of the concerns expressed by some legislative agencies and have taken steps to address them. As a result, officials we interviewed at these agencies generally agreed that over the

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<sup>13</sup>U.S. General Accounting Office, *GAO's Congressional Protocols*, [GAO-01-145G](#) (Washington, D.C.: November 2000).

<sup>14</sup>U.S. General Accounting Office, *Internal Control Management and Evaluation Tool*, [GAO-01-1008G](#) (Washington, D.C.: August 2001).

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last year or two, OOC has taken steps to improve the working relationships with their respective offices. These officials cited efforts by OOC's senior executives to reach out to them through a series of meetings held by the Executive Director and General Counsel as evidence of a new, more constructive attitude towards legislative agencies. For example, in the area of occupational safety and health enforcement, an AOC official told us that OOC's General Counsel had initiated several meetings with AOC to discuss possible initiatives to improve health and safety on Capitol Hill. Included in these discussions was AOC's recent decision to adopt an internal IT application to assist the agency in tracking and monitoring potential safety and health problems before complaints are made to OOC. According to both the AOC official and OOC's General Counsel, the two organizations have had preliminary discussions on the possibility of sharing such health and safety data, although they have yet to come to an agreement on whether or how to do so.

Despite some advances, our interviews with agency officials identified several areas where OOC needs to make improvements in how it communicates and coordinates with agencies covered by the CAA. Among the continuing problems officials mentioned were (1) OOC's failure to always follow its own rules and procedures when conducting investigations of health and safety complaints and (2) the lack of timely and consistent follow-up on the status and disposition of investigations conducted by the Office and clear communication with agency officials.

For example, several agency officials told us that OOC was not always consistent in the manner in which it conducts investigations of occupational safety and health-related complaints, occasionally failing to follow its own processes and procedures. The CAA gives OOC's General Counsel considerable authority to inspect and investigate places of employment under the jurisdiction of employing agencies covered by the CAA and does not require him to provide advance notice before starting an investigation or visiting buildings or facilities.<sup>15</sup> However, to foster a constructive working relationship with the agencies they regulate, OOC's General Counsel and a staff member told us that it has been a long-standing policy of OOC to immediately notify the agency involved when the Office receives a safety and health-related complaint. In addition, except in cases of emergency or when any delay might pose a danger, it is also OOC's policy to give agencies the option of attending an opening conference

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<sup>15</sup>See 2 U.S.C § 1341(c)(1).



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before proceeding with the investigation. However, officials at two agencies told us that there have been cases, including some within the past year, where OOC has failed to follow its policy on agency notification. They said these instances have contributed to misunderstandings, confusion, and, in at least one case, the perception among senior agency officials “that a ‘gotcha’ mentality still exists at OOC.” While OOC and the agency involved in this last case do not agree concerning the facts and significance of OOC’s actions that led to this comment on the part of the agency, the situation provides an illustration of the differences that exist in perceptions between OOC and some agency officials.

In addition, agency officials told us that often OOC would not follow up with agency officials on the status and disposition of investigations in a timely or consistent manner. For example, agency officials told us of cases where, after meeting with OOC staff to discuss the findings of a particular investigation and responding with a plan to address the issues, they did not hear back from OOC for months, or in several instances, for a year or more. The agency official we spoke with explained that this absence of closure complicated efforts to resolve the current status of cases.

Our review of OOC's procedure manual for handling safety and health-related complaints found that it did not provide a clear, complete, and up-to-date source of OOC's policies and procedures on how the Office responds to such complaints. In addition, the manual did not provide clear time frames on when OOC would communicate to agencies during this process. For example, the manual has not been updated since 1997 and does not contain any specific language on the Office's policy of providing agencies with opening conferences as described to us by OOC's General Counsel and his staff. In response to follow-up requests, OOC staff did provide us with a separate one-page document, dated May 1999, which described topics discussed at an opening conference. However, this document also did not clearly set forth OOC's policy on agency notification, and it was not clear how it was used and how widely it had been distributed. OOC's General Counsel has recently acknowledged the need to revise and update these procedures, but he told us that because of other needs he has not given this a high priority.

To establish channels that facilitate open and effective communication, organizations need to clearly set out procedures—such as communication protocols—that they will consistently follow when doing their work. For example, building on the foundation of the congressional protocols we developed in 2000, GAO launched the pilot phase of our agency protocols

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in 2002 that contain clearly defined and transparent policies and practices on how we carry out our work at federal agencies.<sup>16</sup> These protocols identify what agencies can expect from GAO and what GAO expects of agencies. Toward this end, our protocols present information on the framework of GAO's engagement and audit activities—including communication between GAO and agencies, interactions during the course of GAO's work, and follow-up on GAO's recommendations—and contain a description of the specific actions and activities we will take at each stage as well as specific time frames when appropriate. In this way the protocols are intended to help ensure the consistency, fairness, and effectiveness of interactions between GAO and the agencies with which it works. Rather than being just a paperwork exercise, the development of agency protocols that clearly and accurately communicate OOC's current policies and procedures can be an important tool to assist OOC's management achieve its commitment to communicate more openly and effectively with legislative agencies. In addition, protocols can have a significant impact on OOC's ability to work constructively and fairly with the agencies it regulates, and to accomplish its overall mission goals.

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## Recommended Next Steps

Both OOC's Board of Directors and its senior executives recognize the importance of communicating with stakeholders and have begun to make efforts in this area. Consistent with that commitment, we recommend that OOC take the following steps:

- Develop congressional protocols, in close consultation with congressional stakeholders, that would document agreements between the Congress and OOC on what congressional stakeholders can expect as the Office carries out its work. Protocols help to ensure that OOC deals with its congressional stakeholders using clearly defined, consistently applied, and transparent policies and procedures. They can also help OOC reach agreement on the best mix of products and services to achieve its mission. It is important to note that consulting with stakeholders is not the same as seeking their acceptance or approval on matters where that would not be appropriate. The purpose of such protocols is to help create a basic understanding of OOC's goals, functions, and procedures; and what OOC will communicate to whom,

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<sup>16</sup>U.S. General Accounting Office, *GAO's Agency Protocols*, [GAO-03-232SP](#) (Washington, D.C.: December 2002).

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when, and how, without compromising the independence the Congress gave OOC to enforce the CAA.

- Develop agency protocols, in cooperation with legislative agencies, that would clarify and clearly communicate the procedures OOC will follow when interacting with agencies while carrying out its work.

In both cases OOC should carefully pilot the protocols before they are fully implemented so that OOC, the Congress, and legislative agencies can gain valuable experiences in their application and that appropriate adjustments can be made.

We also recommend that the Executive Director and the General Counsel review and revise OOC's case handling policies and procedures, such as OOC's procedure manual for handling safety and health-related complaints, and ensure that they are effectively communicated to appropriate legislative agency officials.

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## Creating and Sustaining an Enhanced Management Control Environment Essential for Effective Operations

The creation of an enhanced control environment forms the foundation for an organization's ability to put in place the management controls necessary for effective and efficient operations. Well-managed organizations establish and maintain an environment that sets a positive and supportive attitude toward internal control and conscientious management. In our previous work, we have identified several key factors that affect an organization's ability to create such an environment including its organizational and leadership structure and its ability to effectively manage and develop its human capital.<sup>17</sup> OOC faces challenges in both of these areas, which it needs to successfully overcome in order to exercise effective management control.

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## Performance Agreements Offer a Potential Tool to Increase Accountability of Top Leaders and Focus on Organizational Goals

We have previously reported that federal agencies have used performance agreements between senior political and career executives as a tool to define accountability for specific goals, monitor progress, and contribute to

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<sup>17</sup>[GAO/AIMD-00-21.3.1.](#)

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performance evaluations.<sup>18</sup> Congress has also recognized the role that performance agreements can play in holding organizations and executives accountable for results. For example, in 1998, the Congress chartered the Office of Student Financial Assistance as a performance-based organization and required the agency to implement performance agreements. In addition to providing OOC's Board with a mechanism to increase accountability, performance agreements would also provide the platform for ongoing dialogue to help ensure that the goals and priorities contained in OOC's strategic plan are carried out by its top executives and help ensure the proper alignment among daily operations and activities and the broader results OOC strives to achieve.

Since it was created in 1995, OOC has operated without having any formal performance management system for its Executive Director and General Counsel. Starting in 2003, OOC's Board of Directors required these officials to prepare an annual self-assessment that they submit to the Board for review. The Executive Director and General Counsel prepare narratives assessing themselves in five performance categories: operational management, external relations, ethics, strategic planning, and Board relations. These narratives then form the basis for a subsequent informal review session with the Board. The development of these self-assessments is an important first step in improving the performance and assuring the accountability of OOC and its executive team.

OOC's current efforts to develop a strategic plan provide an ideal opportunity for the Office to build on this first step. Once OOC has reached agreement with its stakeholders and has completed its strategic plan, it can take the next step and develop results-oriented performance agreements with its senior executives that are directly linked to organizational goals embodied in its strategic plan—the absence of which is a major limitation of the current effort. We have reported on a number of benefits of performance agreements that may have direct importance to achieving improved performance at OOC. Performance agreements have:

- *Strengthened alignment of results-oriented goals with daily operations.* Performance agreements define accountability for specific goals and help to align daily operations with agencies' results-oriented, programmatic goals.

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<sup>18</sup>U.S. General Accounting Office, *Managing for Results: Emerging Benefits From Selected Agencies' Use of Performance Agreements*, [GAO-01-115](#) (Washington, D.C.: Oct. 30, 2000).

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- *Fostered collaboration across organizational boundaries.* Performance agreements encourage executives to work across traditional organizational boundaries or "silos" by focusing on the achievement of results-oriented goals.
  - *Enhanced opportunities to discuss and routinely use performance information to make program improvements.* Performance agreements facilitate communication about organizational performance, and provide opportunities to pinpoint improved performance.
  - *Provided a results-oriented basis for individual accountability.* Performance agreements provide results-oriented performance information to serve as the basis for executive performance evaluations.
  - *Maintained continuity of program goals during leadership transitions.* Performance agreements help to maintain a consistent focus on a set of broad programmatic priorities during changes in leadership.<sup>19</sup>

In addition to assuring accountability and alignment of operations to results, performance agreements could help OOC ensure it maintains a common and consistent vision and approach to the implementation of the CAA. In the past, a lack of such a common vision on how OOC should approach the enforcement of workplace health and safety requirements or interact with stakeholders resulted in clashes between the Executive Director and the previous General Counsel. Specifically, a number of congressional and legislative agency officials we interviewed had the perception that a previous General Counsel's emphasis on a strict "gotcha" approach toward enforcement led to a combative and adversarial relationship with legislative agencies and other stakeholders that was at odds with the more collaborative approach supported by OOC's Executive Director.

OOC's current Board, Executive Director, and General Counsel told us that they share a common commitment to pursuing a collaborative and constructive approach towards enforcing the CAA. OOC's recent effort to develop a strategic plan is a reflection of the common vision of the organization's mission, goals, and operational approach shared by OOC's current leaders. In addition, they appear to enjoy good working

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<sup>19</sup>[GAO-01-115](#).

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relationships among themselves. However, the standards of effective management control and OOC's own past experience demonstrate the need for the office to take appropriate steps to address the OOC's organizational structure and presents a challenge to effective management control.

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### Effective Human Capital Management Is Also a Key Factor in Management Control

Effective human capital management is an important factor contributing to management control as well as an organization's ability to achieve results. We have identified two human capital challenges currently facing OOC: (1) the need to ensure leadership continuity and preserve critical organizational knowledge in the face of the impending loss of a large number of leaders over the next 2 years and (2) the need to establish a modern, effective, and credible performance management system with appropriate safeguards for all OOC employees.

### Leadership Continuity Is Key to Management Control

Sustained focus and direction from top leadership is a key component of effective management. Management control requires that organizations consider the effect upon their operations if a large number of employees—including executives and other leaders—are expected to leave and then establish criteria for a retention or mitigation strategy.

OOC currently faces a considerable loss of knowledge and leadership capacity due to impending turnover of its Board of Directors. This expected loss is the result of CAA provisions that limit current Board members to a single 5-year term. For example, within the next year-and-a-half all five members of the current Board will reach the end of their terms. When the Congress crafted the CAA, it included a provision to provide for staggered terms for OOC's Board. However, delays in the appointment of successors to the original group of board members resulted in the appointment of several new members at the same time. Specifically, the Chair and two members of the five-member Board were appointed in October 1999 and are scheduled to complete their terms in September 2004. The terms of the two remaining Board members will end eight months later in May 2005.

The situation is only slightly better for OOC's four appointed executives. Similar to the Board, the CAA restricts OOC's four appointed executives to nonrenewable 5-year terms of service. In addition, this restriction also prevents the possibility of having a deputy executive director serve in the role of executive director, making the potential of succession planning among this group of executives impossible. The terms of all but the General Counsel will expire within 6 months of each other in 2006. If one considers

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both OOC's Board and its senior executives together, eight out of nine of the organization's top officials will have left by September 2006. The loss of such a large proportion of OOC's senior leadership within a relatively short period will likely result in a loss of leadership continuity, institutional knowledge, and expertise that has the potential of adversely impacting OOC's performance at least in the short term.

Other federal agencies with functions similar to OOC do not restrict their board members from serving subsequent terms. For example, there are no statutory restrictions on the five board members of the EEOC and the three board members of the Federal Labor Relations Authority from serving addition terms. In addition, the statute governing the National Labor Relations Board permits the five board members to be reappointed.

### Need for Modern, Effective, and Credible Approach to Performance Management

We have previously reported that performance management systems can create a "line of sight" showing how team, unit, and individual performance can contribute to overall organizational results.<sup>20</sup> An explicit alignment of daily activities with broader results is one of the defining features of effective performance management systems in high-performing organizations. Organizations naturally need to develop performance management systems that reflect their specific structures and priorities. Given OOC's small size and specific situation, it is important that it considers these and other key practices in the context of its own needs, capabilities, and circumstances.

In September 2002, OOC rolled out its first formal performance management system to staff who report to the Executive Director. OOC assesses employees on eight performance dimensions: (1) job knowledge and technical skills, (2) overall quality of work, (3) employee and professional relationships, (4) planning and organization, (5) work habits, (6) judgment, (7) initiative and creativity, and (8) development. Supervisors are to meet with their staff twice a year to provide ratings and feedback on the previous 6-month assessment period. They also are to hold an interim meeting halfway through each assessment period. For these eight performance dimensions, supervisors give each employee two separate

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<sup>20</sup>U.S. General Accounting Office, *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, [GAO-03-488](#) (Washington, D.C.: Mar. 14, 2003); *Results-Oriented Cultures: Insights for U.S. Agencies from Other Countries' Performance Management Initiatives*, [GAO-02-862](#) (Washington, D.C.: Aug. 2, 2002); and [GAO-01-115](#).

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ratings—the first describes the employee’s overall achievement in the performance dimension, and the second represents the progress of the employee toward achieving specific goals established at the start of the evaluation cycle.

On one hand, OOC’s decision to establish a formal performance management system covering at least some of its employees represents a good first step and its performance management system exhibits some positive characteristics. For example, OOC’s requirement that supervisors and employees meet at least four times a year to discuss the employees’ recent performance and individual goals provides regular opportunities for staff to discuss and act on feedback. On the other hand, there are areas where the system can be improved as OOC’s efforts in this area move forward. For example, OOC’s current performance management system assesses staff against the eight performance dimensions identified above without providing specific standards or detailed descriptions of the behaviors associated with varying levels of performance. For instance, for the performance dimension “overall quality of work,” the only descriptive standard provided is “consistently produces competent work.” OOC should explore the usefulness of including descriptions of competencies—those specific skills or supporting behaviors that employees are expected to demonstrate as they carry out their work—in its performance management system to provide a basis for making judgements about an individual’s performance and contribution to OOC’s results.

In addition, OOC’s current performance management system does not apply to the General Counsel or any OOC attorneys who report to him. These employees continue to work without any formal performance management system in place. Moving forward, the involvement of employees will be crucial to the success of any efforts by OOC to create a new performance management system or reform and expand its existing one.<sup>21</sup> Given OOC’s small size, the cost in time and effort to obtain such feedback likely could be minimal.

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## Matters for Congressional Consideration

Congress should consider making legislative changes to the CAA to help ensure that OOC maintains institutional continuity into the future. Specifically, the Congress should consider amending the CAA to allow:

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<sup>21</sup>U.S. General Accounting Office, *A Model of Strategic Human Capital Management*, GAO-02-373SP (Washington, D.C.: Mar. 15, 2002) and GAO-02-862.



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- Board members to be reappointed to an additional term, and
  - the Executive Director, General Counsel, and the two Deputy Executive Directors to be reappointed to serve subsequent terms in either the same or a different position, if warranted and the Congress so desires. Any reappointments should be contingent on an individual's demonstrated performance and achievement of goals as documented in executive performance agreements for OOC's Executive Director and General Counsel, as recommended below, or another performance management system in the case of OOC's two Deputy Executive Directors.

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## Recommended Next Steps

We recommend that OOC's Board:

- Require performance agreements between the Board of Directors and OOC's Executive Director and General Counsel to help translate the Office's strategic goals into day-to-day operations and to hold these executives accountable for achieving program results.

We recommend that OOC's Executive Director and General Counsel:

- Establish a modern, effective, and credible performance management system with appropriate safeguards for all OOC employees. OOC should build on the first step of establishing a basic performance management system for employees reporting to the Executive Director by ensuring that all employees, including those who report to the General Counsel, participate in an individual performance management system. In addition, OOC should look for ways to develop a more robust and effective approach to individual performance management by considering key practices employed by leading organizations.
- Actively involve all OOC's employees in this process, whether it entails the revision and expansion of its existing performance management system or the creation of an entirely new initiative.

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## Agency Comments

On January 22, 2004, we provided a draft of this report to OOC's Board of Directors, Executive Director, and General Counsel for their review and comment. We received written comments prepared jointly by the Board of Directors, Executive Director, and General Counsel on January 26, 2004. In

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their joint response, OOC generally agreed with the contents of this report, noting that the Office has begun to adopt many of our recommendations as part of its strategic planning process and current programmatic initiatives. Furthermore, the Board of Directors strongly supports our statement that the Congress should consider amending the CAA to allow OOC's Board members to serve an additional term and to allow the Executive Director, General Counsel, and the two Deputy Executive Directors to be reappointed to serve additional terms in either the same or a different position, if warranted and desired. As mentioned in their response and as acknowledged in our report, we have provided information and assistance to OOC regarding their management control improvement efforts and we plan to continue working with OOC's leadership and meet with them regularly to discuss their progress. Their written response is reprinted in appendix II. In addition, OOC's Executive Director and General Counsel provided minor technical clarifications, and we made those changes where appropriate.

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We will provide copies of this report to other interested congressional committees, and the Office of Compliance. In addition, we will make copies available to others upon request. The report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any questions about this report, please contact me or Steven Lozano on (202) 512-6806 or on [mihmj@gao.gov](mailto:mihmj@gao.gov) and [lozanos@gao.gov](mailto:lozanos@gao.gov). Major contributors to this report were Jeff Dawson, Peter J. Del Toro, Jeffery Bass, Bruce Goddard, and Jeff McDermott.

A handwritten signature in black ink that reads "J. Christopher Mihm". The signature is written in a cursive style with a large, stylized initial "J".

J. Christopher Mihm  
Managing Director, Strategic Issues

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# Objective, Scope, and Methodology

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To meet our objective of assessing key management controls in place at the Office of Compliance (OOC) and identify what improvements, if any, could be taken to strengthen OOC's effectiveness and efficiency, we followed a multipronged approach. First, we analyzed applicable laws, legislative history, rules, and regulations; and obtained and analyzed written documentation of guidance, policies, procedures, and performance of OOC.

Second, to understand the complex operating environment and long-standing challenges facing the agency, we conducted a series of interviews with agency officials, key stakeholders, and officials from agencies covered by the Congressional Accountability Act (CAA). To obtain OOC's perspectives on its operations and the challenges it faces, we interviewed OOC's Board of Directors as well as each of its top executives—the Executive Director, General Counsel, Deputy Executive Director for the Senate, and Deputy Executive Director for the House. We also met with all of OOC's managers including the Deputy General Counsel, Director of Counseling, and Budget and Administrative Officer.

To understand how key stakeholders perceive the OOC, we conducted 19 interviews with selected majority and minority congressional staff from both the Senate and House. Among those we interviewed were staff from Senate and House leadership offices, Senate and House Subcommittees on Legislative Branch Appropriations, Committee on Governmental Affairs, Committee on House Administration, Office of the Senate Employment Counsel, Senate Sergeant-At-Arms, Senate Administrative Managers Group, Office of the Clerk of the House, Office of the House Employment Counsel, Office of the Chief Administrative Officer of the House, House Inspector General, as well as personal staff of several senators and representatives.

We also spoke with cognizant officials from agencies covered by the CAA to obtain their views of the performance of the Office. These included the Architect of the Capitol, the Congressional Budget Office, the United States Capitol Police, the Office of the Attending Physician, the Library of Congress, and GAO. To obtain the perspectives of organized labor and employee groups we spoke with two of the largest unions representing employees in legislative agencies—the Association of Federal, State, County, and Municipal Employees, and the Fraternal Order of Police.

In addition, we conducted selected reliability and validity reviews of OOC's dispute resolution process database. For these reviews, we questioned OOC staff about their internal controls for their dispute resolution

database. We then drew a random sample of 5 cases out of a total field of 44 cases reported as closed in the database for 2002 and compared the electronic data to source documents. We also examined whether OOC was processing cases within statutorily defined thresholds for key process phases. The OOC's responses to our questions and the results of this comparison led us to conclude that the data were sufficiently reliable for the purposes of our report.

We also drew on key management practices and guidance identified in previously-issued GAO reports, where appropriate. As part of a process of constructive engagement, we provided OOC with briefings, reports, and examples of best practices in the areas we reviewed. For example, at the OOC's request, GAO officials provided briefings on our approach to strategic planning and we provided copies of our strategic planning documents.

On January 22, 2004, we provided a draft of this report to OOC's Board of Directors, Executive Director, and General Counsel for their review and comment. We received written comments prepared jointly by the Board of Directors, Executive Director, and General Counsel on January 26, 2004. Their written response is reprinted in appendix II. OOC also provided technical comments that we have incorporated where appropriate. We performed our work in Washington, D.C., from January 2003 through January 2004 in accordance with generally accepted government auditing standards.

# Comments from the Office of Compliance



*advancing safety, health, and workplace rights in the legislative branch*

## Office of Compliance

Board of Directors

Susan S. Robfogel  
*Chair*  
Barbara L. Camens  
Alan V. Friedman  
Roberta L. Holzwarth  
Barbara Childs Wallace

January 26, 2004

J. Christopher Mihm  
Director  
Strategic Issues  
United States General Accounting Office  
441 G Street NW  
Washington, D.C. 20548

Dear Mr. Mihm:

The Board of Directors and Executive Appointees of the Office of Compliance are pleased to submit these comments to be appended to the GAO Report: *Office of Compliance: Status of Management Control Efforts to Improve Effectiveness* (GAO-04-400). The Board and management of the Office are united in our response to the GAO Report, as we are united in our ongoing efforts further to improve the effectiveness and efficiency of this agency in administering the dispute resolution, education, and regulatory programs mandated by the Congressional Accountability Act of 1995. As the Report is being issued, this agency continues to make progress toward adoption and implementation of the recommendations of GAO.

Our Mission:

*"The Office of Compliance works to advance safety, health, and work place rights for employees and employers of the Legislative Branch as mandated by the Congressional Accountability Act of 1995."*

Our Response to the GAO Report

The Office of Compliance has embraced the GAO constructive engagement as a primary resource in our ongoing effort to develop a comprehensive focus for the future of this agency. We have benefitted from GAO's advice and counsel regarding our strategic planning process, our IT master plan, and establishment of more effective human capital management.

Because of the open and collegial interchange which has characterized our partnership with GAO, many of the observations and recommendations in the Report are already reflected in ongoing

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**Appendix II**  
**Comments from the Office of Compliance**

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programmatic initiatives, and in our Three Year Strategic Plan, which is in the final stages of development. The Office has also recently submitted a comprehensive zero base budget estimate for FY2005, consistent with the major objectives in our draft Strategic Plan, which reflects the Office's needs as we move into implementation of the recommendations by GAO.

The Board of Directors strongly supports the GAO recommendation that Board Members and the executive staff appointed by the Board be eligible for reappointment. Currently, the entire Board and management staff must be replaced every five years. GAO has recommended to Congress that the governance structure of the Office of Compliance be changed to permit both Board Members and executive staff appointed by the Board to serve more than one term in office. The Board of Directors is particularly hopeful that the Congress will give the Board flexibility to reappoint members of the executive staff who have proven their value to the agency. To that end, the Board of Directors intends to establish performance agreements with the Executive Director and General Counsel as soon as the Office's three year Strategic Plan is finalized in the coming weeks. Similarly, the Executive Director and General Counsel are in the process of enhancing our existing staff performance appraisal system, and linking performance appraisal directly with objectives under the Strategic Plan.

GAO is encouraging the Office to continue to clarify its interaction with all stakeholders, as well as to build on other initiatives which the Office has begun over the past several years. The unique role played by this Office requires that the agency's leadership effectively engage simultaneously with stakeholders as a regulated community, as peer agencies of Congress, and as oversight/appropriation authorities. In a small organization occupying such a singular position in the Legislative Branch, a position which requires a careful balance of collegiality and independence, institutional stability and success is directly related to our ability to develop and maintain the trust of the regulated community in the experience of our leadership. Board particularly urges the Congress to authorize the Board's option to reappoint of the executive staff, who are leading the day-to-day efforts to improve the effectiveness of the Office of Compliance.

As recommended by GAO, the Office will continue to strive to maximize efficiencies, and to regularly engage in reevaluation of the direction and effectiveness of our programs in education, dispute resolution, and enforcement. Our ability to implement the goals and objectives which have resulted from the comprehensive review of our enterprise will require the enhancement of the Office's capacity and capability in several critical areas. We respectfully request that the appropriations subcommittees review our zero base budget estimate for FY 2005 with reference to recommendations included in this Report.

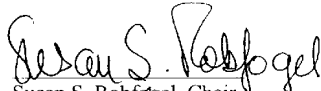
The Office of Compliance looks forward to a continuing engagement with GAO after this Report has been submitted to the appropriations subcommittees. We hope that GAO will continue to provide the Office with constructive support in areas of expertise which a small agency must access externally.


Appendix II  
Comments from the Office of Compliance

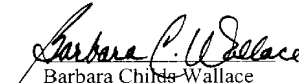
The Office also solicits input from stakeholders in the Legislative Branch regarding the observations and recommendations made by GAO. We intend to engage in informal discussions with interested entities and individuals about the Report, and about what this Office is doing to better protect and serve the Capitol Hill community.

The Office of Compliance strives to make a positive permanent impact on the quality of work life in Congress and its instrumentalities, and on the health and safety of the entire Capitol Hill community. We welcome the recommendations of GAO as a major contribution to our effort to improve our ability to carry out Congress's mandate to implement the Congressional Accountability Act of 1995.

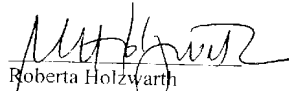
Sincerely,

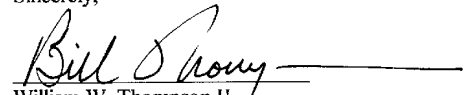
  
Susan S. Robfogel, Chair

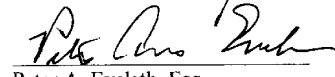
  
Alan Friedman


  
Barbara Childs-Wallace

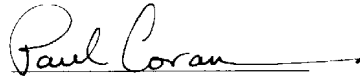
  
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William W. Thompson II  
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