

**PREPARED TESTIMONY**

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**OFFICE OF COMPLIANCE**

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**SENATE COMMITTEE ON APPROPRIATIONS**

**SUBCOMMITTEE ON THE LEGISLATIVE BRANCH**

**MAY 7, 2009**

Mr. Chairman, Ms. Murkowski, and distinguished Members of the Subcommittee, I am honored to appear before you today on behalf of the Office of Compliance ("OOC"). Joining me today are General Counsel Peter Ames Eveleth, Deputy Executive Director Barbara J. Sapin, Deputy General Counsel Susan M. Green, and Budget and Finance Officer Allan Holland. Collectively, we present to you the agency's request for appropriations for fiscal year 2010, and we seek your support of our request.

Before I get to next year, though, I want to express our appreciation for your support of our Office during FY 2009. The Subcommittee's support for the mission and efforts of the OOC was reflected in the funding level authorized for the OOC in fiscal year 2009. Thanks to the Subcommittee's support, the agency is able to increase its efforts to provide technical assistance to employing offices and employees, both on Capitol Hill and in remote offices; offer training programs tailored to the specific needs of the covered community; improve its operational infrastructure; and provide its talented workforce with salary levels that reflect their level of performance. We appreciate the continued support of the Subcommittee and thank you for your assistance in ensuring a fair and safe workplace for our covered community.

Your support continues to demonstrate results. Over the past two Congresses, safety and health hazards in Senate Office Buildings have dropped by over 50%. We expect this progress to continue when we inspect Senate Buildings in the current Congress. Those inspections will begin during the August recess. We attribute these results to your support for our collaborative efforts with the Senate Chief Counsel for Employment, Senate Sergeant at Arms, and the AOC/Senate Superintendent.

For our fiscal year 2010 operations, the Office of Compliance is requesting \$4,474,475 - an increase of \$402,475 or 9.88% over our fiscal year 2009 funding level. Like all of us in this room, we are mindful of the economic difficulties confronting the country and the federal government. We know that this Subcommittee faces real fiscal constraints. Accordingly, we are not renewing our request for a number of items from our 2009 appropriations request: namely, three FTEs - the fire safety specialist, the trainer, and the ombudsman. We recognize

our responsibility to make more efficient our operations to meet the government's current fiscal challenges while at the same time fulfilling our mission.

Despite our funding challenges, however, we continue to perform our statutory duty. For example, we are working closely with the Office of the Architect of the Capitol ("AOC") staff to implement the Capitol Power Plant Utility Tunnel Settlement Agreement. Our full-time tunnel liaison has an excellent working relationship with AOC officials. As a consequence, our offices cooperate extremely well in ensuring that the life-threatening hazards that characterized the tunnels in the past are being abated in a timely fashion. In particular, asbestos has been removed from four of the tunnels and is being removed from a fifth. Assuming continued funding, we anticipate that all asbestos will be removed from all tunnels by the summer of 2010. Structural repairs are continuing. Emergency egress is being improved. Heat stress is being reduced. We are very pleased with the progress so far, and look forward to continued cooperation with the AOC, until the Settlement Agreement is completely fulfilled.

We are also proud of our accomplishments in resolving employment disputes in the legislative branch. In FY 2008, we processed more than 100 claims raised by covered employees through our use of alternative dispute resolution, resulting in 18 formal settlements. Some of these claims were resolved with monetary awards, but many were not. The OOC played a significant role in fostering creative settlements that included non-monetary terms tailored to meet the needs of the disputants. This type of resolution is significant as it often results in a win-win situation for both parties, and it is also a cost-savings measure for the government.

Looking forward, we want to continue to report accomplishments and meet our statutory mandates, but we cannot accomplish our mission without adequate resources. In light of the current economic situation, we are not requesting three FTEs that we asked for in the last fiscal year. But changed circumstances have highlighted the need for us to add one new position to our ranks.

Since 1997, the agency has benefited from the services of an employee on a non-reimbursable detail from the Department of Labor. This long-time OSH program supervisor and special assistant to the General Counsel is a certified industrial hygienist with over thirty years' experience in occupational safety and health matters. His duties include supervising our safety and health inspectors, working with outside OSH experts, and providing expert technical advice to the General Counsel and guidance to OGC staff regarding the application of OSHA standards. In short, he is critical to our operation. But this detailee plans to retire in January 2010, and it is unlikely that we will be able to replace him with another non-reimbursable detailee. Moreover, these types of duties are best performed by an employee on staff with the agency, who is accountable to the very agency where the duties are performed. For these reasons, we are

requesting the authorization for and funding of an OSH program supervisor FTE. Because the current supervisor will not retire until calendar year 2010, we have presented our request with a prorated amount of funding.

In FY 2008, the Subcommittee authorized a compliance officer FTE. The Subcommittee recognized the agency's need to monitor the abatement schedules of employing offices and ensure that employing offices have taken appropriate steps towards resolution of identified hazards and violations. Indeed, in fiscal year 2006, this very Subcommittee reminded the agency that mechanisms and personnel are necessary to better assure efficiency and timeliness in our monitoring program. Because of financial constraints, however, the position was authorized without funding in FY 2008 and remained unfunded in FY 2009. The agency requests in our FY 2010 submission funding for this very critical position. Receiving funding for this position will allow the Office to perform its statutory duty by providing technical assistance to employing offices in abating complex hazards, assuring timely abatement of hazards identified in the OSH biennial inspections and requestor-initiated inspections, and ensuring compliance with OSH-related citations.

In our FY 2009 request, the OOC sought funding to support our "prevent and reduce" initiative. This initiative was created to reduce the number of incidents giving rise to allegations of violations of the Congressional Accountability Act ("CAA"). It was contemplated that three additional FTEs – a fire safety specialist, a trainer, and an ombudsman - would provide technical fire safety expertise, as well as assist employees and employing offices to resolve complaints at the earliest opportunity, resulting in taxpayer savings. The agency remains convinced that these FTEs would provide the covered community with essential technical assistance and allow for early and amicable resolution of workplace disputes. However, given our current financial situation, we have explored other ways of providing these services to the covered community. Consequently, we have removed these FTEs from our FY 2010 request and only seek minimal funding for contracted fire safety services.

We are all aware that fire safety continues to be a critical concern for the legislative branch. Significant, long-standing fire hazards remain in Senate and House Office Buildings, the Capitol, and Library of Congress facilities. These buildings present special challenges due to their historic nature, innate beauty, and ongoing heavy usage. Through collaboration with the AOC, the OOC has made significant progress in developing abatement plans to resolve fire safety Citations that have been pending since 2000 and 2001. However, because of the challenges presented by the beauty and history of these buildings, the efforts to abate the hazards may continue for years before complete abatement is achieved. As our efforts at accelerating abatement activity have increased, the demands on our fire protection engineer and legal staff have significantly expanded.

As the agency is staffed with only one inspector with specialized expertise in fire safety issues and one attorney who spends a large portion of his duties addressing matters other than fire safety concerns, the agency is limited in its resources to address these critical hazards. We recognized the need for additional resources in this area and requested an FTE in FY 2009. Although the need for additional resources continues, the agency has reexamined exactly how to meet that need. As a result, the agency requests FY 2010 appropriations for the contractual services of a fire safety specialist. We expect that this Specialist will serve a function similar to that of our tunnel liaison, and devote full-time efforts to resolving the very serious fire hazards present in the legislative branch. Removing the request for an FTE results in a savings of almost \$25,000.

In an effort to reduce costs for our mandated dispute resolution program, the OOC has entered into an interagency Memorandum of Understanding with the Merit Systems Protection Board ("MSPB"). This Memorandum allows the agency to utilize MSPB mediators and hearing officers to conduct proceedings that are required by the CAA. Further plans are being made to enter into additional interagency agreements with other agencies. Such agreements allow the OOC to reduce costs because they typically provide for more favorable rates for contracted services. The OOC realizes that our mediation and hearing services contain certain elements beyond our control: the agency cannot dictate either the number of claims presented for mediation or the number of complaints filed for hearing. We do have control over the costs for services, however, and it is those costs that we are continually working to reduce.

### **CONCLUSION**

The agency approaches FY 2010 with heightened fiscal responsibility and an understanding that only minimal funding essential to meeting our mission may be available. We have reexamined our programs in conjunction with our statutory mandates, and we have made significant efforts to streamline our appropriations request to reflect the country's and the government's current economic difficulties. With that understanding, we present to the Subcommittee only those items necessary to meet our statutory mandates. There are a number of items requested in our written budget justification that we submit for your consideration. The ones mentioned today, though, are those that we would like to highlight for the Subcommittee: an OSHA program supervisor, funding for the previously authorized compliance officer FTE, and contractual funding for a fire safety specialist. Funding for these items will allow the agency to continue to provide needed services and technical assistance to the covered community.

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