

LEGISLATIVE BRANCH APPROPRIATIONS FOR 2013

HEARINGS BEFORE THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED TWELFTH CONGRESS SECOND SESSION

SUBCOMMITTEE ON LEGISLATIVE BRANCH

ANDER CRENSHAW, Florida, *Chairman*

STEVEN C. LATOURETTE, Ohio
JO ANN EMERSON, Missouri
DENNY REHBERG, Montana
KEN CALVERT, California

MICHAEL M. HONDA, California
DAVID E. PRICE, North Carolina
SANFORD D. BISHOP, JR., Georgia

NOTE: Under Committee Rules, Mr. Rogers, as Chairman of the Full Committee, and Mr. Dicks, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

ELIZABETH C. DAWSON, *Clerk*
JENNIFER KISIAH, *Professional Staff*
CHUCK TURNER, *Professional Staff*

PART 2

FISCAL YEAR 2013 LEGISLATIVE BRANCH APPROPRIATIONS REQUESTS



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FISCAL YEAR 2013 LEGISLATIVE BRANCH APPROPRIATIONS REQUESTS



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LEGISLATIVE BRANCH APPROPRIATIONS FOR 2013

TUESDAY, FEBRUARY 7, 2012.

LIBRARY OF CONGRESS

WITNESS

DR. JAMES H. BILLINGTON, LIBRARIAN OF CONGRESS

ROBERT DIZARD JR., LIBRARY OF CONGRESS CHIEF OF STAFF

MARIA A. PALLANTE, REGISTER OF COPYRIGHTS

OPENING STATEMENT OF CHAIRMAN CRENSHAW

Mr. CRENSHAW. I want to call the meeting to order.

Welcome. This is the first meeting for the Legislative Branch Subcommittee of the House Committee on Appropriations. The total fiscal year 2013 budget request that we are going to consider is a little over \$3.5 billion; and that is a \$155 million increase, about 4.6 percent over last year's. This is exclusive of the Senate and Senate Office Building, which total \$990 million; and we have the tradition of comity, that those items are going to be considered by the other body.

This subcommittee is tasked with determining the level of funding Congress needs, while ensuring accountability for its own spending and maintaining the ability to adjust and justify the spending to our constituents.

Now, we all recognize that our legislative branch appropriations bill is the smallest of all the bills. It is one-half of 1 percent of all the discretionary spending. But we all respect the fact that it presents its own unique challenges and concerns.

I think it is worth noting that since January of 2011, when Republicans took the majority in the House, that the legislative branch spending, excluding the Senate items, has been reduced by over \$290 million—that is about 8 percent—and that results in a salary and benefits savings of about \$54 million when you consider there are about 513 FTEs that are no longer here.

But I think everybody knows that these cuts do not come without pain. I think that we have all shared in some of the pain, and I think all the members of this subcommittee are aware of that.

And when you consider the fact that we have a national debt of about \$15 trillion, everyone can be assured that we are going to continue to do our part, ask everybody to try to be more efficient, more effective, do more with less. We are all in the same boat together.

So I look forward to working with my Ranking Member, the gentleman from California. We have had nothing but a great relationship thus far, and I expect that to continue.

I want to welcome the other members of the subcommittee for being here today; and, with that, I am going to ask Mr. Honda if he would like to make any opening remarks.

OPENING STATEMENT OF MR. HONDA

Mr. HONDA. Thank you, Mr. Chairman; and, thus far, I am glad to be here.

The legislative branch, as you have said, is the smallest of all the appropriations bills but funds an entire equal branch of government. The analysis and oversight provided by our staff, including the Congressional Budget Office, the Government Accountability Office, the Congressional Research Service, and, of course, our committees and personal staff, should be applauded, given that we have always been understaffed and underfunded.

As we move through this cycle, I hope we live within the constructs of the Budget Control Act agreement as to not reopen fights of the past. Also, all of the subcommittees must keep in mind that sequestration will probably impact our agencies in 2013. The agencies should be preparing for that, and so should this committee.

So I want to thank Chairman Crenshaw for the working relationship we have had over the last year. We on this side stand willing and ready to work with you to get this bill done. Thank you.

Mr. CRENSHAW. Thank you.

First of all, we are going to hear from the Library of Congress. Dr. Billington, I want to welcome you, ask you to summarize your opening statement; and then we will insert your full statement in the record, as well as those of the director of CRS and the Register of Copyrights.

INTRODUCTION OF NEW LIBRARY LEADERSHIP

Please introduce your staff that are with you. I see that we have got a new director of the CRS, we have got a new director of the Library Services, we have got a new Law Librarian, and a new Register of the Copyrights. Dr. Billington, other than you and me, it looks like we have got a bunch of new people around here.

Mr. BILLINGTON. Well, thank you.

Although many have retired, we have replaced them with very experienced people. So I might ask them to stand up.

Maria Pallante is the new Register of Copyrights; Mary Mazanec, the Director of the Congressional Research Service; Roberta Shaffer, Associate Librarian for Library Services; and David Mao, Law Librarian of Congress. It is a very good team and we are happy to say working very harmoniously under our very qualified and energetic chief of staff who is with me today, Robert Dizard. So thank you, Mr. Chairman.

OPENING STATEMENT OF THE LIBRARIAN OF CONGRESS

First of all, Mr. Chairman, Mr. Honda, members of the subcommittee, I appreciate the opportunity to present the Library of Congress fiscal 2013 budget request.

The Congress of the United States has been the greatest patron of the library in the history of the world. It has created, sustained, and expanded the reach of this library for 212 years, throughout every period of our history. The Congress has viewed its library, America's oldest Federal cultural institution, as a unique institution of fundamental importance for our knowledge-based democracy.

Mr. Chairman, all of us at the Library of Congress are deeply grateful for the support you give to this, the world's largest and most inclusive collection both of recorded human knowledge and of America's cultural and intellectual creativity.

We are seeking funding just to maintain current core services, adjusted for inflation, at the reduced fiscal level of 2012. We have asked for no program increases. The requested funding for fiscal 2013 will allow the Library time to conclude our intensive IT and zero-based budget review, which is now underway as called for in the House report for fiscal 2012. Over the next year, the results of the review will inform our decisions and resource allocation necessary in order to preserve and enhance priority mission functions within smaller budgets.

In my written statement I have itemized the major work we have been able to do even with the budget reductions in fiscal 2011 and with the added reductions in fiscal 2012. In our effort to absorb these appropriations reductions without damaging mission-critical programs, we offered a voluntary separation incentive program, accepting early retirement for 186 staff, which nonetheless meant losing the institutional memory of important and one-of-a-kind curators and technicians.

I have listed some of the impacts, but we have been using the realities of the budget environment to strengthen our program, to get the various parts of the entire Library to work better together, synergistically, by adopting Library-wide strategies. We have made major strides in improving the Library's Web presence in a unified effort, bringing together resources and scholarly expertise from across the Library. We are in the process of making important structural reorganizational changes that will more fully integrate our digital and analog services.

I also want to especially mention, Mr. Chairman, again, our need for funding in the Architect of the Capitol's budget for Module 5 for preservation and storage at Fort Meade. This is essential if we are to continue to make our unique collections, as they have been, rapidly accessible for Congress and the American people.

Our fiscal 2013 request is, in essence, a petition not to deepen the reductions in the library's budget and not to put our core services at greater risk. Reductions have already cut deep into the library's muscle. We ask that they not be allowed to cut further on into the bone.

Mr. Chairman, Mr. Honda, Mrs. Emerson, members of the subcommittee, thank you again for your support of the Library and for your consideration of our fiscal 2013 request.

[The prepared statements of Dr. Billington, Mary Mazanec, and Maria Pallante follow]:

[The bios of Mary Mazanec, Maria Pallante, Roberta Shaffer and David Mao follow:]

Statement of Dr. James H. Billington
The Librarian of Congress
Before the
Subcommittee on the Legislative Branch
Committee on Appropriations
U.S. House of Representatives
Fiscal 2013 Budget Request
February 7, 2012

Mr. Chairman, Mr. Honda, Members of the Subcommittee:

I am pleased to present the Library of Congress fiscal 2013 budget request.

The Congress of the United States has created and sustained its Library, the nation's library, for 212 years, through every period of our history. The Congress has viewed its Library – America's oldest federal cultural institution – as a unique institution of fundamental importance for our knowledge-based democracy. Mr. Chairman, all of us at the Library of Congress are deeply grateful for the support you give to this, the world's largest and most inclusive collection of recorded human knowledge and of America's cultural creativity.

The Library's mission is to support the Congress in fulfilling its constitutional duties and to further the progress of knowledge and creativity for the American people. Our fiscal request for 2013, Mr. Chairman, respects the need for budgetary austerity and asks for what is truly important for America in this information age.

We are seeking funding just to maintain current core services, adjusted for inflation, at the reduced fiscal 2012 level. We have asked for no program increases. The requested funding will allow the Library time to conclude the intensive IT and zero-base budget review, now underway, that was called for in the House Report for fiscal 2012. Over the next year, the results of the review will inform our decisions on resource allocation that are necessary in order to preserve and enhance priority mission functions within smaller budgets.

In fiscal 2011, we were able to continue these services with reduced resources. We

- Responded to more than 763,000 congressional research requests, delivering to the Congress more than one million research products and approximately 30,000 items directly from the Library's collections.
- Registered more than 670,000 claims to copyright.
- Provided reference services to more than half a million individual users;
- Led a nationwide effort with more than 19,000 teachers throughout the country to advance K-12 students' understanding of American history and culture by providing 20 million primary documents from our collections online free of charge.

- Circulated more than 25 million items to more than 800,000 blind and physically handicapped Americans.
- Gave state-of-the-art preservation treatment to 10.7 million items in the collections; and
- Welcomed nearly 1.7 million visitors to our exhibits and public facilities here on Capitol Hill.

In response to the appropriations reductions in fiscal 2012, and in an effort to absorb the reductions without damaging the Library's mission critical programs, we offered a voluntary separation incentive program, accepting early retirement for 186 staff – which nonetheless meant losing institutional memory in some highly specialized areas of research and curation.

As a result of the fiscal 2012 reductions:

The Congressional Research Service eliminated 40 positions and decreased its investments in information technology, research materials, and professional development activities. With fewer resources, we are increasingly challenged both to maintain the quality and timeliness of response that characterize CRS work and to ensure coverage of all issues for the Congress.

The Copyright Office made significant cutbacks in its information technology budget and reduced or delayed hiring, because receipts were lower than expected and because appropriated funding was reduced. As a result, critical upgrades to the electronic registration service that directly supports copyright commerce will take a longer period of time to put in place and raise concern about a potential new backlog in copyright claims processing, adversely affecting both authors and users of copyrighted materials.

The Law Library lost four key positions (including a senior foreign law specialist for Canada) and is concerned about sustaining its historic ability both to recruit expert foreign legal specialists for important jurisdictions and to acquire current and new foreign legal and legislative material needed to respond to congressional requests.

Library Services lost 50 staff in the Acquisitions and Bibliographic Access Directorate alone – the most basic of the Library's services – along with other reference and public service staff. Budget reductions in fiscal 2012 have led to the postponement of purchasing switches and routers needed to archive video of Senate floor proceedings and have delayed installation of compact shelving at the Packard Campus facility.

For the National Library Service for the Blind and Physically Handicapped, unless \$6 million in no-year funds for playback machines can be reprogrammed to allow the purchase of content media cartridges, the shortage of funds for flash cartridges will disrupt the Digital Talking Book program production cycle, and could dramatically affect the delivery of digital books and magazines to patrons and slow the analog-to-digital conversion of retrospective titles.

I have listed some of the impacts, but there has also been an important strategic bright spot amid the practical difficulties posed by our current budget environment: it has encouraged the entire Library to work better together in pursuit of Library-wide strategies. We have made major strides in improving the Library's Web presence in a unified effort that has brought together resources and expertise from across the Library. We are in the process of making robust structural changes that will more fully integrate our digital and analog resources.

I also want to make special mention again of our need for funding in the Architect of the Capitol's budget for Module 5 at Ft. Meade. This is an essential element of our increasingly pressing collections management and access requirements.

Our fiscal 2013 request is, in essence, a petition not to deepen the reductions in the Library's budget and put our core services at greater risk. Reductions have already cut deep into the Library's muscle. We ask that they not be allowed to cut into bone.

Mr. Chairman, the Congress of the United States has been the greatest patron of a library in human history. Each year, its Library is privileged to serve directly every member of Congress, every congressional committee, and millions of Americans, often in ways that would otherwise be unavailable to them. We want to continue these services. We, as a nation, need this institution, which serves as the sole keeper of both the mint record of America's copyrighted creativity and of the world's greatest repository of preserved and curated knowledge.

Mr. Chairman, Mr. Honda, and Members of the Subcommittee, I thank you again for your support of the Library and for your consideration of our fiscal 2013 request.

Statement of Mary B. Mazanec
Director, Congressional Research Service
before the
Subcommittee on the Legislative Branch
Committee on Appropriations
U.S. House of Representatives
Fiscal 2013 Budget Request
February 7, 2012

Mr. Chairman, Mr. Honda, and Members of the Subcommittee:

Thank you for this - my first - opportunity to present the fiscal year 2013 budget request for the Congressional Research Service (CRS). I am honored to have been appointed CRS Director by Dr. Billington last December after having joined CRS in August 2010 as Deputy Director. While my tenure has been relatively short, it did not take long for me to realize that the Library of Congress is a very unique institution and that the Congressional Research Service plays an important role in supporting Congress. I am impressed daily by the expertise and hard work of CRS staff. They are truly dedicated to serving Congress and view themselves as extensions of congressional staff, a pooled resource available to all Members and committees.

Support for Congress

The events and legislative agenda of the last fiscal year demanded much of CRS staff. I believe we were able to successfully accomplish our mission of providing objective and authoritative information and analysis of the legislative issues Congress had to grapple with despite significant staff reductions and cutbacks in other resources. Let me outline briefly some of the major areas in which we provided support to Congress in the last year.

The economy dominated much of the legislative agenda last year and will probably continue to be an overarching issue in 2012 and beyond. CRS experts analyzed options to provide economic stimulus, create jobs, assist the unemployed and reduce the deficit. We provided briefings and seminars on the sustainability of the debt and deficit, approaches to address the budget deficit and methods to stimulate economic expansion. After passage of the Budget Control Act, CRS budget and congressional procedural experts produced a series of products on the operation of the Act and its implications for agencies and programs.

CRS tracked and analyzed rules and regulations implementing financial reform legislation, conducted several seminars on banking and financial intermediation and provided legal analyses of aspects of the new financial regulatory structure. Economists and policy experts analyzed the implications of the economic challenges facing the Euro zone countries for the U.S. economy and world financial stability. Reauthorization of the

Export Import Bank and policies surrounding China's currency were issues of interest that will carry over into this session of Congress.

The Middle East and North Africa have entered an era of rapid, dramatic and fundamental change and CRS foreign policy and military experts were called upon to analyze volatile and quickly changing events in Egypt, Libya, Syria and elsewhere. CRS specialists also provided support on U.S. strategy in Afghanistan and Iraq, including governance and security issues following drawdown of U.S. presence in both countries. NATO military operations in Libya raised questions of war powers and options facing the NATO-led coalition forces.

Several devastating natural disasters at home and abroad – from flooding and wildfires to the Japanese earthquake and tsunami - captured congressional interest. CRS provided information and analysis on disaster relief programs and the relief operations of the Army Corps of Engineers. Analysts also evaluated the implications of the Japanese nuclear incident for U.S. nuclear energy policy and the safety of nuclear reactors.

Reauthorization of the USA Patriot Act prompted requests for legal and policy analyses of the scope of the government's law enforcement authorities in the national security context and the application of the state secrets privilege in litigation. Attorneys also analyzed the detainee provisions in the recently enacted National Defense Authorization Act. The ongoing debate over the FAA reauthorization saw CRS analysts addressing such issues as air traffic control modernization, fuel tax proposals and transportation security.

The Supreme Court will be ruling this term on the constitutionality of key provisions of the health care legislation as well as the authority of states to legislate in the area of immigration. Both of these controversial issues have been features of the legislative agenda for the past two Congresses and have occasioned legal analyses by CRS attorneys. The decisions are certain to generate much congressional interest and have implications for not only the operation of programs directly implicated but also for the scope of congressional power.

Many of the issues I have recounted above will continue to be of interest to Congress in this session. CRS has completed its annual legislative planning process, identifying over 160 issues before Congress and organizing its product line and web resources around those issues. We are also meeting with leadership offices to ensure that CRS is well positioned to support Congress' legislative agenda.

We are also beginning our planning for the *CRS Seminar for New Members* for the 113th Congress. The last program was attended by a record number of new House members and we expect another productive exchange with the freshman class next Congress. The program offered in conjunction with the Committee on House Administration and led by CRS and outside experts exposes new House members to the range of issues that they will confront in their initial months in office as well as briefings on the legislative and budget process.

Our support for Congress spans the entire legislative agenda and our expert and multidisciplinary staff are ready to provide confidential tailored memoranda and personal briefings, more widely available CRS Reports for Congress, seminars and programs on the legislative process and topical issues, and information and advice in response to a phone call or e-mail. CRS is also making strides in providing access to its expertise and information via the technological tools that our clients rely on to do their work.

While we are operating under increased budget pressures in technology and research resources, we continue to enhance the functionality of our web site. CRS.gov is the gateway to all CRS analytical and informational resources, including our analysts and informational professionals. A useful and accessible web site is an efficient way to deliver CRS services and expose clients to all that CRS has to offer. This past year we have introduced customization capabilities which enable users to create accounts and tailor the information they would like to receive from CRS, get updates on new products, programs and changes to the web site, and facilitate their placing specific requests. We have also made it easier for users to focus more quickly on notable CRS products, featured topics that are dominating the legislative agenda, and to have access to basic data resources that complement the analytical content of CRS Reports.

We are currently in the process of examining more robust search capabilities and ways to make CRS subject matter experts more accessible to our clients. We have also enhanced the mobile web site and continue to explore ways to make CRS material more accessible on the variety of mobile devices that have become such an important part of the way Members and staff access information.

Fiscal 2013 Budget Request

The CRS budget request for fiscal 2013 is \$109.2million, with almost 90 percent devoted to salary and benefits for our staff. CRS continues to operate at its lowest staff level in more than three decades and eliminated 40 positions in fiscal 2012. The small percentage of non-pay expenditures is limited to basic support for research and analysis. This request is mindful of the difficult fiscal issues facing Congress and does not include funding for additional specialized technical skills and policy expertise that would be helpful in meeting the growing policy demands placed upon Congress.

Conclusion

I want to close by again emphasizing what an honor it is to have been named Director of CRS. I follow in distinguished footsteps and I am aware of the great responsibility of the Service to fulfill its mission of providing objective and non-partisan assistance to Congress. I believe that this mission is even more vital and important today as Congress is exposed to a welter of information from all sides and Members must sort through the myriad of voices that vie for their attention in order to make sound policy choices. I intend to ensure that the Congressional Research Service remains Congress' primary source for analysis and information that it needs to perform its legislative

functions and that we continue to explore new and innovative ways we can best serve – as adjunct staff – the committees of Congress, Members and their staffs. We thank you for your continuing support.

Statement of Maria A. Pallante
Register of Copyrights and Director
United States Copyright Office

Subcommittee on Legislative Branch
Committee on Appropriations
United States House of Representatives
112th Congress, 2nd Session
February 7, 2012

Fiscal 2013 Budget Request

Mr. Chairman, Mr. Honda, and Members of the Subcommittee:

Thank you for the opportunity to present the fiscal 2013 budget request of the United States Copyright Office. We deeply respect the need to engage in responsible fiscal management in these austere times.

The Copyright Office, already a lean operation, does not seek additional FTEs or funding for new projects, but we do hope to ensure that our existing staff is compensated competitively so as to maintain a strong, talented workforce that will sustain the Copyright Office in the 21st century. As copyright issues become more ubiquitous, and as the Office charts a course for the future, it will need to pursue intelligent growth to ensure that it can meet the needs of the national copyright system well into the future.

For fiscal 2013, our requests are as follows:

- 1) A 2.2% increase (\$0.999 million) over FY12 to support mandatory pay-related and price level increases affecting administration of the Office's core business systems and public services;
- 2) A 1.8 % increase (\$0.093 million) over FY12 in offsetting collection authority for the Copyright Licensing Division to support mandatory pay-related and price level increases affecting the administration of the Office's licensing functions; and
- 3) \$2 million to restore the Copyright Office's base funding.¹

Program Overview

The U.S. Copyright Office plays a critical role in promoting and disseminating American works of authorship and in sustaining large and small businesses in the information, entertainment, and technology sectors. It administers the national copyright registration and recordation systems (and exercises associated regulatory authority) in accordance with Title 17

¹ The enacted budget for fiscal 2012 directed the Copyright Office to utilize no-year funding (collected from fees for services) to offset expenses, effectively reducing our spending ratio of appropriated dollars to fees at the same time that fees and receipts were lower than anticipated. To ensure sufficient funding for operations in fiscal 2013, including the ability to cover necessary staffing and critical technology upgrades when fees fluctuate, the Office requests restoration of its base appropriations. As outlined in *Priorities and Special Projects of the United States Copyright Office: 2011-2013* (www.copyright.gov/docs/priorities.pdf), the Office is in the midst of a multi-year evaluation of fees, services, technology and other issues that will inform its future strategies for intelligent growth.

of the U.S. Code. The Office's registration system and the companion recordation system constitute the world's largest database of copyrighted works and copyright ownership information.

In terms of the larger U.S. economy, many authors, composers, book and software publishers, film and television producers, and creators of musical works depend on the registration system to protect their creative works and business interests. Based on a study released in 2011 using data from 2010,² these core sectors – whose primary purpose is to produce and distribute creative works – account for more than 6.36% of the U.S. domestic gross product, or nearly \$932 billion. The core copyright industries also employed 5.1 million workers (3.93% of U.S. workers), and that number doubles to over 10.6 million people (8.19% of the U.S. workforce) when the workers that help and support the distribution of these works are added into the equation.

Law & Policy

The Register of Copyrights is the principal advisor to Congress on issues of domestic and international copyright policy. She works closely with both copyright owners and users of copyrighted materials to sustain an effective copyright law—on issues ranging from enforcement to fair use.

Through its policy work, the Copyright Office provides leadership and technical expertise to ensure that the copyright law stays relevant and updated, not only to protect authors in the 21st century, but also to ensure updates for users of copyrighted works. These include appropriate exceptions for libraries, persons who are blind, and certain noncommercial educational activities.

The Copyright Office participates in important U.S. trade negotiations relating to intellectual property (e.g., treaties and free trade agreements) at both the bilateral and multilateral levels. It also works with the Department of Justice on critical copyright cases.

Fiscal 2011

In fiscal 2011, the Office provided ongoing assistance to Congress on a number of complex issues and delivered a major study on market-based alternatives to statutory licenses for cable and satellite retransmission. The Register testified twice on major copyright legislation, on (1) enforcement measures to combat the operators of illegal, infringing websites trafficking in infringing copyrighted works, such as movies, music, books, and software; and (2) new provisions that would update the criminal penalties for infringement of the exclusive right of public performance that occurs through the streaming of the work (e.g., a television program or live sporting event) to make the penalties similar to those for infringement based on the distribution right. The Office participated in major negotiations at the World Intellectual Property Organization and with major trading partners. On the litigation front, the Department of Justice called upon the Office on several important issues, including challenges to the constitutionality of copyright law amendments, interpretation of the first sale doctrine, and issues related to the importation of copyrighted works.

² Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2011 Report*, prepared by Economists, Inc. for the International Intellectual Property Alliance (2011).

Registration & Recordation

The copyright registration and recordation systems protect, and document for the public, a diverse array of American authorship, including motion pictures, software, books, musical compositions, sound recordings, photography, and fine art, as well as databases, websites, and other online works. The Office reached a significant milestone in fiscal 2011 by returning to normal levels of processing and claim completion and eliminating the backlog. At the start of fiscal 2011, it had approximately 380,000 claims awaiting processing, and received an additional 539,332 claims. The Office closed 734,256 claims during the year—nearly 195,000 more than it received. It ended the year with its standard workload of approximately 185,000 claims on hand, of which approximately half are awaiting further action from the claimants and half are awaiting Office action. Those in the Office’s working queue will, on average, be processed within two to four months, depending on the complexity of the claim.

Licensing

The Copyright Office helps administer certain compulsory and statutory license provisions of the U.S. Copyright Act, which pertain to setting royalty rates and terms and determining the distribution of royalties for certain copyright statutory licenses. These licenses cover activities including secondary transmissions of radio and television programs by cable television systems and secondary transmissions of network and non-network stations by satellite carriers. The Office’s primary clients with respect to the statutory licenses are copyright owners and users of copyrighted works that are subject to statutory copyright licenses. The Office is responsible for collecting and investing royalty fees for later distribution to copyright owners, examining related documents, providing information to various constituencies as part of its public affairs program, and recording documents for several licenses for which royalties are handled by outside parties.

In fiscal 2011, the Office’s Licensing Division began a multiyear business process reengineering program designed to decrease processing times for statements of account, implement on-line filing processes, and improve public access to Office records. The new processes will be implemented and refined throughout fiscal 2012 and 2013.

Acquisitions

The Copyright Office also administers the mandatory legal deposit of works published in the United States. In fiscal 2011, the Office managed the deposit of more than 700,000 copies of creative works for the Library’s collection, which the Library would otherwise have had to purchase, valued at approximately \$31 million.

Because more and more journals, magazines, and newspapers are “born digital,” the Copyright Office has led a Library-wide effort to obtain and manage serials that publishers supply only in electronic formats. Although the project currently focuses on mandatory deposit provisions under Title 17—provisions that require publishers to deposit copies of certain works with the Library of Congress within three months of publication—it serves as a test bed for the intake of works by the Library through other mechanisms, including the registration system. The Office’s current work sets the stage for the Library’s electronic acquisition strategy, which will ultimately enhance and diversify the Library’s collections to capture and reflect American Internet culture.

Priorities for a 21st Century Copyright Office

Fiscal 2012

On October 21, 2011, the Register of Copyrights released ***Priorities and Special Projects of the U.S. Copyright Office*** (www.copyright.gov/docs/priorities.pdf), a comprehensive document that articulates the significant statutory duties of the Office as well as expectations of the copyright community. This document received tremendous positive feedback from a wide array of copyright stakeholders and the media. It includes everything from strategic evaluation of technical systems to planning for intelligent business growth for the future to updating the *Compendium of Copyright Office Practices*—the primary source of registration practice followed by Copyright Office staff, the public and courts—for the digital era.

The communication of these priorities and special projects represents a commitment from the Office to address complexities in the copyright system and prepare for future challenges. The Office will use the priorities document as a roadmap to improve the quality and efficiency of its services subject to the availability of budgetary resources. The document outlines the Office's work on current and future law and policy questions including orphan works, small claims solutions for copyright owners, mass book digitization, illegal streaming, collaboration with the World Intellectual Property Organization, and updates to registration practices to accommodate works created online. The Office will also undertake improvements to operations including: technical upgrades to electronic registration, increased public outreach and copyright education, and reengineering of its recordation system.

The following are some of the specific policy projects the Office has completed or commenced in fiscal 2012: (1) an analysis of legal issues relating to mass book digitization, the Google Book Search litigation, and applicable licensing models; (2) a major study and recommendations to Congress regarding copyright protection for pre-1972 sound recordings; (3) research and analysis of small claims solutions for individual authors and other copyright owners; (4) a rulemaking on exceptions to the prohibition on circumvention of measures controlling access to copyrighted works for ultimate determination by the Librarian of Congress (pursuant to the Digital Millennium Copyright Act); and (5) the development of an updated fee schedule that takes into account the Office's fiscal requirements as well as the objectives of the copyright system.

The Register of Copyrights will serve on the negotiating team for the United States for a major treaty to protect performers in the context of audiovisual works at a Diplomatic Conference to be held in June 2012 in Beijing, and will provide treaty implementation advice to Congress, as appropriate.

Finally, the Office will continue to evaluate, streamline, and otherwise improve its public services, including processing times and quality assurance for the examination of copyrighted works, processing of claimant information, and issuance of copyright registration certificates.

Fiscal 2013 and Beyond

Fiscal 2013 will be an extremely important year for the Copyright Office. The Office will continue its implementation of the Register's priorities and special projects; the research and analysis phase of many of these projects will conclude by or before October 2013. Some of these projects relate directly to the stewardship and effective operation of the Nation's copyright registration system in the 21st century, and will yield important data to inform the Office's focus and strategies for fiscal 2014-2018.

The Office will address the implementation of its fee schedule and associated practices early in fiscal 2013, following research in fiscal 2011 and 2012, and public consultation and delivery of a major study to Congress on the topic in fiscal 2012.

The Office will also conclude a major analysis of the technical aspects of registration and recordation in fiscal 2013, including crafting a strategy to address certain technology, portal and processing issues about which it is studying and consulting with stakeholders and experts in fiscal 2012. It will continue the critical work of ensuring standards for repositories of electronic works of authorship, and digitizing historic copyright records from the period of 1870 to 1977 and making them searchable online.

The Office will continue its work on major negotiations for intellectual property protection in the Asia-Pacific rim and other regions of the world, and continue major work on the implementation of worldwide protection for performers in audiovisual works. It will work with Congress on a number of major studies and policy developments, including orphan works, revisions of certain exceptions to copyright (including for libraries), mass digitization policy, and final work on small claims solutions for copyright owners (with a major study due to Congress in October 2013). The Office will publish portions of a major revision of its lengthy *Compendium of Copyright Office Practices* during fiscal 2013, and release the final publication in October 2013.

Challenges of the Current Fiscal Environment

In fiscal 2012, a reduced appropriation, as well as collections that were lower than expected, required the Copyright Office to make significant cutbacks. The Office substantially reduced its information technology budget, slowing critical upgrades to the Office's electronic registration service that directly supports copyright commerce and affects both authors and users of copyrighted materials. The Office also reduced its workforce by 44 staff members through Voluntary Early Retirement Authority and Voluntary Separation Incentive Payments programs.

Although the Office is currently understaffed, it has taken steps to delay or reduce new hiring and to reduce training, travel, supplies, and new equipment expenditures. The Office is concerned that continued funding challenges could have an adverse impact on the Office's registration program, potentially leading to another backlog of copyright claims awaiting processing. It successfully eliminated a backlog in fiscal 2011 that had occurred as a result of its transition to electronic processing in 2007. Further reductions will also lead to an adverse impact on its ability to participate in international negotiations and other policy efforts that are important to U.S. trade interests. The Copyright Office is committed to intelligent growth, recognizing the need to develop and implement a clear business strategy that takes into account the needs of the national copyright system, while exercising sound fiscal judgment.

Fees for Services

On October 1, 2011 the Office commenced a study of the costs it incurs and the fees it charges with respect to the registration of claims, recordation of documents, and other public services, pursuant to its authority under 17 U.S.C. § 708(b). The statute requires that the Office establish fees that are “fair and equitable and give due consideration to the objectives of the copyright system.” 17 U.S.C. § 708(b)(4). Such objectives include, for example, protecting creative works of authorship, ensuring a robust public database of authorship and licensing information, and facilitating the recovery of reasonable costs incurred by the Office.

As noted previously, the Office will deliver the fee study to Congress in fiscal 2012, with implementation as appropriate in fiscal 2013.

Conclusion

Mr. Chairman, I want to thank you for your consideration of our budget request today and for the committee’s past support of the U.S. Copyright Office. Thank you in particular for considering the funding we require to sustain a first-rate staff and meet necessary expenses, enabling us to perform our core duties under the law and build the infrastructure necessary to support America’s copyright system in the years ahead.

Mary B. Mazanec

Director, Congressional Research Service

The Librarian of Congress appointed Mary B. Mazanec to the position of Director of the Congressional Research Service (CRS) after consulting with the Joint Committee on the Library as required by law.

Mazanec was named the Director of CRS in December of 2011. She joined CRS in August of 2010 as the Deputy Director and became the Acting Director in April of 2011.

Prior to joining CRS she worked at the Department of Health and Human Services in numerous positions including Deputy Assistant Secretary and Director of the Office of Medicine, Science and Public Health, Office of the Assistant Secretary for Preparedness and Response; Chief Medical Officer and Director of the Division of Public Health Services, Office of Health Policy; and Office of the Assistant Secretary for Planning and Evaluation. Her major areas of focus included science, public health, and medical topics.

Dr. Mazanec has served as a senior policy analyst at the Medicare Payment Advisory Commission. As a Robert Wood Johnson Health Policy Fellow, she served as a senior advisor for the Subcommittee of Public Health, Senate Committee on Health, Education, Labor, and Pensions. She was an associate professor of medicine and pathology at Case Western Reserve University (CWRU), where she directed an NIH-funded biomedical research program. Currently, she is an adjunct associate professor of medicine and pathology at CWRU.

She received a BS from the University of Notre Dame and an MD and JD from CWRU. She completed an internal medicine residency at the University of Michigan and a pulmonary medicine fellowship at CWRU. She is a member of the Ohio State Bar and the District of Columbia bar.

Maria A. Pallante

Register of Copyrights and Director, U.S. Copyright Office

Maria A. Pallante is the Register of Copyrights of the United States and Director of the U.S. Copyright Office; she was appointed June 1, 2011. In this capacity, she oversees the nation's copyright registration and recordation systems and carries out a variety of domestic and international policy activities prescribed by law. The Copyright Office is the primary advisor to the U.S. Congress on issues of copyright law and supports the related work of executive branch agencies and the judiciary.

Pallante previously held two senior positions in the U.S. Copyright Office, serving as Associate Register (policy and international affairs) and Deputy General Counsel, respectively, from January 2007 to October 2010.

From 1999-2007, Pallante was intellectual property counsel and director of licensing for the worldwide Guggenheim Museums, headquartered in New York, where she advised on programmatic and business initiatives related to worldwide publishing, product development and branding; the acquisition and exhibition of contemporary art; and the operation of overseas affiliates and licensees.

Pallante worked for two authors' organizations in New York, serving first as Assistant Director of the Authors Guild, Inc. and then as Executive Director of the National Writers Union, in each case working on copyright policy, transactions, litigation and freedom of expression issues. She practiced briefly with the Washington, DC law firm and literary agency Lichtman, Trister, Singer and Ross, and completed a clerkship in administrative law for the appellate division of the U.S. Department of Labor.

Pallante is a 1990 graduate of the George Washington University Law School. She earned her bachelor's degree in history from Misericordia University, where she was also awarded an honorary doctorate of humane letters.

Roberta I. Shaffer

Associate Librarian for Library Services

Roberta I. Shaffer was appointed Associate Librarian for Library Services on January 3, 2012. In this capacity she manages 2,000 employees are responsible for acquisitions, cataloging, public service, and preservation activities, services to the blind and physically handicapped, and network and bibliographic standards for America's national library.

Shaffer graduated cum laude from Vassar College with an A.B. degree in political science/demography, with highest honors from Emory University with a master's degree in law librarianship and cum laude with a J.D. from Tulane University School of Law. She is admitted to the Texas, District of Columbia and U.S. Supreme Court bars. She has a certificate in mediation and negotiation from the Howard Law School.

Shaffer has a rich and diverse background in academics, management, law, librarianship and technology. In 1980, she was appointed director of the University of Houston Law Center's Legal Communications Program and associate director of the center's Law and Technology Program. In 1984, she became the first person appointed to the position of special assistant to the Law Librarian in the Library of Congress.

In 1987, Shaffer was named a Fulbright Senior Research Scholar at the Tel Aviv University Faculty of Law in Israel, and also participated in a legal database development program sponsored by the Portuguese Institute for Science and Technology and Ministry of Justice. Upon her return to the U.S., she worked at the George Washington University National Law Center Library.

From 1990 until 1999, she served concurrently as adjunct coordinator of the law librarianship specialization at the School of Library and Information Science at the Catholic University of America and as director of research services at the law firm of Covington and Burling in Washington, D.C. In 1999, she was appointed and served for two years as dean and professor at the Graduate School of Library and Information Science at the University of Texas at Austin. After working briefly with the Special Libraries Association and as a consultant, in 2002 she accepted the position of director of external relations and program development and professor at the College of Information Studies at the University of Maryland in College Park, where she implemented and ran the Master of Information Management (MIM) degree.

Shaffer returned to the Library of Congress in 2005 as executive director of the Federal Library and Information Center Committee/Federal Library Network (FLICC/FEDLINK). In 2009, she was named as the Law Librarian of Congress.

David S. Mao

Law Librarian of Congress

David S. Mao is the Law Librarian of Congress. He manages the operation and policy administration of the Law Library of Congress, which contains the world's largest collection of legal materials and serves as the leading research center for foreign, comparative, and international law.

Prior to becoming the Law Librarian of Congress, Mr. Mao served as the first Deputy Law Librarian of Congress. In that position, he served as a key member of the Law Library's leadership team and managed the Law Library's global legal research portfolio, including the Global Legal Research Center and the Global Legal Information Network. Prior to his appointment as Deputy Law Librarian, Mr. Mao was a section head at Congressional Research Service (CRS), Library of Congress.

Mr. Mao is a *magna cum laude* graduate of The George Washington University, where he majored in international affairs with a minor in Chinese language and literature. After earning his law degree from the Georgetown University Law Center, Mr. Mao was in private practice for several years before returning to graduate school to pursue a master's degree in library science at The Catholic University of America. Before arriving at CRS in 2005, he held positions at the Georgetown University Law Library and within the research library of the international law firm of Covington and Burling LLP. He also was an adjunct professor at the University of Maryland–College Park.

Mr. Mao served a three-year term as the treasurer of the American Association of Law Libraries and was a member of its executive board. He currently is treasurer and a board member of the Chinese and American Forum on Legal Information and Law Libraries, of which he is a founding member. A member of the American Bar Association, he is admitted to the District of Columbia and Pennsylvania Bars.

Mr. CRENSHAW. Thank you very much, Doctor Billington.

We are going to ask some questions. I would like to observe the 5-minute rule. We may have a chance to have a couple of rounds. But let me start by asking the question that I want to ask all the agencies that come in here today, and you touched on it a little bit.

MANAGING WITH REDUCED FUNDING

We all know that last year you ended up with less money than the year before. I would like to hear, in a little more detail how are you managing—it is one thing to say, okay, you make a request and you are going to get less money than you had before. And that is kind of a cold, hard reality. This year, we asked all the agencies to prepare their budget from a zero base budget. I would like to hear a little more about what you did with this year's money. And then in particular how you put together next year's budget from a zero base point of view, and maybe tell us a little bit about that exercise, what efficiencies you found out, if you think that is a good exercise. It seems like it would be. And it sounds like that is ongoing now.

So, Bob, maybe you could touch on that.

Mr. DIZARD. I think maybe we could split those two questions. If you want to take the first part, I will take the second part.

Dr. BILLINGTON. In terms of management, let me just say, Mr. Chairman, we are asking some staff to do more and expanding, for example, the portfolios of some of our CRS analysts so that they maintain broad subject coverage.

We expect to catalogue 50,000 less items this year. This impacts every library in the United States. We will operate with 22 fewer reference librarians, reducing services for researchers in our reading rooms and also libraries around the United States that rely on our reference services.

In nonstaff areas, we will not replace security and detection equipment as soon as we planned, and we will have the supplemental changes we need for our exhibit areas deferred. We will try to avoid any further decreases in acquisitions, which have also occurred, but which would in many cases result in an irretrievable loss to the national library's collections.

And I will defer to Mr. Dizard to deal with the approach that we have taken.

ZERO-BASED BUDGET APPROACH

Mr. DIZARD. Mr. Chairman, members of the subcommittee, over the past 10 months, in dealing with the 8.1 percent reduction that you mentioned, we have essentially had to take a zero-based budget approach to get our fiscal 2012 spending plan together. That spending plan is the basis of this essentially flat budget.

We first examined every position in the Library to see who could be eligible for an early retirement or voluntary separation incentive payment. Yet the 186 staff who left under that program accounted only for about 27 percent of the savings we needed in fiscal 2012. We had to spend money to have those people go, too. So our long-term savings there is \$19 million. This year, it is \$11 million, because we had to spend \$8 million to wish them well out the door.

So then, after that, we did an extensive examination of our non-personnel spending. So, essentially, we had to take two-thirds of our reduction in one-third of our budget on the nonpersonnel side. Dr. Billington mentioned some of the results of that, but we are at 189 fewer FTEs and have some of the nonstaff impacts that Dr. Billington outlined.

The second exercise we are going through we started last fall. We began a more thorough review of our budget, and we are initially focusing on information technology. This is an area that the committee directed the Librarian to look at; and, frankly, we agree and believe that we might be able to meet our needs more efficiently by pooling resources and expertise across the Library, rather than having our individual units work on IT projects separately.

We have had in the past 18 months very good success with our Web presence by getting the library together to work as a unit, pooling expertise and pooling resources to update our Web presence throughout the library. We are starting that with an initial priority focus on legislative information on the Web.

So I just summarize by saying the exercise we completed in December essentially realigned resources within our organization. The effort that is now under way will show how we might need realignments between our units. So that is ongoing.

Mr. CRENSHAW. Thank you very much.

Mr. Honda.

IMPACT OF ABSORBING UNFUNDED INFLATION COSTS

Mr. HONDA. I think I understand what you are saying about reductions and everything. The library, along with other agencies, has a mandatory inflation cost; and when those are unfunded, I was wondering what the impact of that is on the agency. Do you have that?

Mr. DIZARD. That is just like a reduction. When you look at our nonpersonals, it means less done, for example, on mass deacidification, because the inflation is covered in the contracts. It just means we get less done on nonpersonal spending.

If we do not have to pay COLAs, that is one thing. But we have things like this year, when we will have to pay FERS adjustments, retirements adjustments, and the like.

Mr. HONDA. So if those are mandatory then, are we issuing off to the side an IOU?

Mr. DIZARD. No. It depends. If you direct us not to pay staff, for example, cost of living adjustments, then that is not an issue. But other things—we do not have control over contracts for, as I mentioned, mass deacidification or binding or electronic resources and the like. We just either get less or take from other areas to pay those.

Mr. HONDA. Before the cuts went into effect last year we were saying that—for our Members to expect less services, not because we do not want to provide them but because we have cut the ability for our different agencies to provide those services. Are the agencies ready to—have they figured out how they are going to say to the Members you all got to wait in line? Or what are some of the thoughts that the agencies have in order to express the shortage

of staff and resources, you know, based upon the cuts that we have made?

Mr. DIZARD. Well, I would say the last thing we will say to the Members is you have to wait in line. But we are saying to people who are using the reading rooms you will have to wait in line.

For example, we lost 22 reference staff, reference librarians who serve people directly in reading rooms. But I am not sure we have gotten to the point in some of the units, like CRS and the Law Library and others, that directly serve the Congress. Our first priority is not to let that slip.

LOSS OF EXPERTISE AND REDUCTIONS IN SERVICE

Mr. HONDA. Okay. Very quickly, I know between the chairman and myself we have to return some funds back to you, some of the other agencies before the end of the year, which should lessen some of the pressure. But I think the agencies have to at least let us know how we need to work with our colleagues to allay the frustrations they may have of agencies like CRS, where we expect a lot of turnaround, quick turnaround for things like that. It is just one of those things we are used to having but are not going to have because of our budgetary decisions.

Dr. BILLINGTON. We handled about three-quarters of a million requests last year. We lost our senior intelligence specialist; and 30 of the 40 lost positions were analysts, attorneys, and information specialists, which means we spread the portfolios that are covered among the remaining people. But this is a serious problem.

We lost, in Library Services, for instance, our top expert on India. We lost 50 acquisitions and bibliographic access personnel, which is the most basic library function, which affects the entire library community of America. In the Law Library, we lost our senior law specialist who covers Canada, the Caribbean, American Samoa, Northern Marianas, Guam, and so forth. And the Pacific colonies.

When you lose specialists capable of such a range of things and with so much experience, you spread the responsibility to others. And at some point it is going to affect the service. I think our people have been stepping up to the responsibilities to spread the portfolios around, but there is a limit to all of that. And I just mention these as some of the examples of the necessary adjustments.

We are determined not to, if possible, let acquisitions drop any more because this can produce irremedial weaknesses in the national collection on which the rest of the library community in America, which is suffering even steeper cuts, by and large, than we are, will also depend.

Mr. HONDA. Thank you, Mr. Chairman.

INSTITUTION-WIDE BUDGET REVIEW

Mr. CRENSHAW. One thing, and I note I was reading one of the statements that you gave us, and I think it is appropriate when you do these kind of reviews, it says you are conducting an extensive institution-wide budget review, looking from the ground up at the Library's core function areas. It is ongoing, it focuses on identifying, defining, and justifying the core function areas of the institution, those that serve the most critical role in enabling the Library

to deliver on its mission and related strategic goals and objectives. And I think that is something that every agency ought to be following. So thank you for that.

Mrs. Emerson.

Mrs. EMERSON. Thank you.

Are we supposed to use the microphones now or not? Okay. Thank you.

Thanks, Dr. Billington, for the great work that you have done over the years; and I had a couple questions, one of which you all have already touched on.

GSA RENTAL COSTS

In my other subcommittee that I chair, the Financial Services and General Government Subcommittee, I have responsibility for the General Services Administration. And we noted in the budget justifications that over the last 3 years that the library has requested double-digit percentage increases for rental payments to GSA. And this year the request I think was 10.9 percent, but the requested increases for rental payments to non-GSA landlords is only 4.1 percent. So can you all explain the difference and why the rent increase between GSA and non-GSA is so big? I mean, that is a fairly substantial increase.

Mr. DIZARD. I think the GSA rates are set. I would probably have to add something to the record for that.

Mrs. EMERSON. So is that through an occupancy agreement or—

Mr. DIZARD. It is, yes.

Mrs. EMERSON. So those rates are just set to increase regardless? So they are not fixed to inflation or anything like that?

Mr. DIZARD. No, I think they are set year to year, is my understanding. They are set every year.

Mrs. EMERSON. If you are renting a space downtown in a private building you might do a 5-year or a 10-year lease with, you know, each year paying through inflation to increase your rent a little bit.

Mr. DIZARD. Right.

Mrs. EMERSON. But these are negotiated on a year-to-year basis for you all then? Is that what your staff is saying?

Mr. DIZARD. I am not sure how much we negotiate with GSA, to be honest with you.

Mrs. EMERSON. Well, you can negotiate with them, just so you know, in the future.

Mr. DIZARD. Okay.

Mrs. EMERSON. Just come talk to us about that. We actually moved out of our Federal building in Cape Girardeau because they were increasing our rent too much, and we cut our budget, so we couldn't afford it any more. But I realize you cannot move out of the Library of Congress. But sometimes these increases are not justified.

Mr. DIZARD. Generally, our objective is to move out of these spaces, and have other arrangements, particularly for areas that have GSA rent restrictions.

Mrs. EMERSON. How many spaces do you rent outside of the—Library building on the Hill?

Mr. DIZARD. It is mainly Taylor Street, which is the National Library Service for the Blind and Physically Handicapped. And we have space in Landover, Maryland, as well, which is just warehouse storage space.

Mrs. EMERSON. Warehouse storage space.

Okay. If you all could get me some more information. Because what we are trying to do is get a handle on GSA and try to keep these numbers down, especially when you do not have much inflation, we do not give people COLAs, then why do we have—how can you justify an increase in rent?

Mr. DIZARD. Right. We will be happy to get you the information and work with you to be more effective in that area.

Mrs. EMERSON. All right. Well, terrific, and we are looking forward to doing that.

[The information follows:]

The Library occupies two facilities rented through GSA: the Landover Center Annex, a warehouse in Landover, MD, and the Taylor Street Annex, an office building on Taylor Street NE in Washington D.C. Historically, the Library has worked only with GSA to lease all of its off-site office and warehouse facilities. Accordingly, a comparison of GSA and non-GSA leased space costs has not been conducted.

The rent increase requested in fiscal 2013 for the Landover Center Annex is attributed at least in part to the consolidation of rent, utilities and services into a single payment. Prior to 2013, these costs were paid and reported separately. Elimination of the separate payments for utilities and services offset some of the cost increase. Further, a one-year lease extension was negotiated for the Landover facility in fiscal 2011, resulting in a rent increase commensurate with a short lease term. For fiscal 2013, a new ten-year lease is being negotiated at a more favorable rate. The Library is continuing to consider facility alternatives and has the option to terminate the Landover lease unilaterally with 120 days notice.

At the Taylor Street Annex, the Library entered into a new five-year lease agreement. Beginning in 2009, at the request of the Library, the Architect of the Capitol was given authority to negotiate and lease space on behalf of the Library of Congress. The AOC and the LOC jointly participated in the most recent negotiations.

FT. MEADE MODULE 5

Dr. BILLINGTON. Part of the problem is getting Module 5 at Fort Meade so we are not dependent on this—

Mrs. EMERSON. I am sorry, to get what? Pardon me, Dr. Billington?

Dr. BILLINGTON. The Module 5 at Fort Meade for storage so we are not dependent on renting this space. That is only part of it, but that is not insignificant, because the books are piling up here in our storage here on Capitol Hill, and we are way behind on this. So this is important to get this under control.

Mrs. EMERSON. It would be good to get this under control so that you can—you know, the services that you provide to the world at large, not only to us, obviously, but to the world at large, we want you to focus on what your real mission is. And obviously paying high rents every year is not always one's mission.

So thank you very much, Mr. Chairman.

Mr. CRENSHAW. Thank you.

I want to recognize Mr. Rehberg and thank him for being here today. He does not have a question right now.

TWITTER ARCHIVE

I have one question, and it has to do with what I read in the paper that you are going to digitally archive all the tweets ever

since 2006. And that is a lot of tweets. I think there are about 50 million tweets every day. I just wonder, A, is that true; and, B, what kind of cost goes along with that?

Dr. BILLINGTON. Well, we are not going to archive all of the tweets. We are assessing exactly what usage can be made of this material. We have decided it is not going to be usable outside of the reading rooms and the facilities of the Library of Congress itself. So we have eliminated a large responsibility there.

But we are still studying it, because it is a very complex problem to define exactly how we will disseminate this information. We should have definitive answers on this by the middle of this year. We have been trying to develop some pilots. But it is not going to be a wide, automatic dissemination of everything, which would be impossible.

Mr. CRENSHAW. What goes into your thinking when you decide you are going to collect all the tweets? I mean, you collect a lot of stuff, and I just wondered how you decide what you are going to collect. I do not want you to get in trouble for hoarding.

POLICY ISSUES RELATED TO NEW MEDIA COLLECTING

Dr. BILLINGTON. Well, we had an opportunity to commit to taking this material. The Library of Congress has been adventure-some, at the forefront of moving into new areas. And the new social media. It is hard to amplify the point enough that these sources are becoming very important internationally in dramatic ways as well as to our national life. And if you are going to have a universal collection, you have to recognize the new media that are coming becoming established.

So we have taken it on. We are working on defining exactly how it can be accessed and how we will define what services we are going to render. But we are not contemplating a vast, expensive new operation here. We are trying to figure out how we can integrate this into the services the Library provides, just as we are now well advanced in integrating the digital and the online material into our analog traditional services. We have to make a probe that will help define what is the research value.

Mr. CRENSHAW. Just keep us abreast.

Dr. BILLINGTON. We will certainly keep you abreast.

Mr. HONDA. If the chairman will yield.

Mr. CRENSHAW. I want to welcome—Mr. Bishop who just walked in, but first, Mr. Honda, do you have another question?

SELECT, COLLECT, PRESERVE, PROVIDE INFORMATION

Mr. HONDA. I was thinking about the same thing. I understand probably the philosophical basis for a library to look at any new technology that is putting out information, where in the old days it used to be print. That is easier to gather. Going out in the ether is probably more complicated. Do you have a paper that explains your philosophical basis and what it is that you intend to do and are other agencies going to be working with you to accomplish this task? Do you have something that is written down that sort of explains this?

Dr. BILLINGTON. I have some internal reports from the people who are working on this, and I am happy to summarize them and relay them to the committee.

Mr. HONDA. Just some basis. It is a great question for the public, too.

[The information follows:]

The Library has been a leader in recognizing and taking action to select, collect, preserve and provide access to significant information that exists only in digital form. Today the types of traditional materials that the Library has collected—public policy, news, scientific journals, arts, entertainment and scholarly work—are digital only and are being distributed via the Internet. For the last 10 years, the Library has been working with federal agencies to establish national standards and guidelines for libraries, archives, and museums to manage and sustain digital collections. The Library is working with over 200 partners from the public and private sectors to build a national collection of digital content that includes geospatial data, scientific datasets, audio, video, photographs, websites, journals, and government information.

STORAGE OF TWEETS

Mr. CRENSHAW. Mrs. Emerson? Do you have any more questions?

Mrs. EMERSON. No, I just cannot even imagine how much space all those Tweets might occupy. But I guess—are you using the cloud to capture all that as opposed to—I do not know how else you could do that.

Dr. BILLINGTON. They have not delivered the files, and we have not accepted anything yet.

Mrs. EMERSON. Okay.

Dr. BILLINGTON. So we are not, as I say, under a strong obligation to figure out what to do with them. We are trying a series of tests to help determine what is the intrinsic research value of this and is it substantive, or is this a matter of having to compute the best use.

Mrs. EMERSON. I see.

Dr. BILLINGTON. There is much too much attention to quantitative measurement of this information in the media coverage. What we are trying do is determine what is the qualitative value of this stuff. And we will not necessarily have a definitive answer. But we will come up with answers that are doable without a great expansive expense.

And what our job is is to determine what is the research value, consulting with others and so forth, what is the research value? What is the importance for Congress and for the American people, to mine this for the increasing diffusion of knowledge in a knowledge-based democracy?

Mr. CRENSHAW. Just keep us posted.

Mrs. EMERSON. It is fascinating.

Mr. CRENSHAW. And I want to make sure everybody knows be careful what you tweet.

Mrs. EMERSON. Not only be careful what you tweet but also be careful of your spelling. Because I know a lot of people have gotten into trouble accidentally, apparently because they have left out a letter or two.

Dr. BILLINGTON. Ours is a distinct function, to help try to determine the research value of all kinds of information and see what we would do with it, what is important to do with it and how much of that we can in fact potentially do.

Mr. CRENSHAW. We look forward to hearing.
Mr. Bishop, do you have a question?

ORAL HISTORY PROJECTS—VETERANS HISTORY AND CIVIL RIGHTS

Mr. BISHOP. I do. Let me just thank Dr. Billington for his testimony and for all the work that the library does. I am the son of a librarian, so I have a great affinity for libraries; and, of course, I have an appreciation, and certainly as all Members do, for the great work that the Library of Congress does.

I have two quick questions. Could you just update us on the Veterans History Project and the Civil Rights History Project? And, secondly, your idea about the need for a small claims-type court in handling small copyright disputes. Currently, these disputes are now required under the copyright laws to go to litigation in Federal court. Of course, if you had a small claims-type court, it might make it much easier for the small claimants to pursue their claims without the legal fees that dissuade a lot of them.

Dr. BILLINGTON. We can have Maria Pallante respond to the copyright question.

But regarding your first question, the oral history has not historically been a major preoccupation and collection item for the Library of Congress, but it has become so because of the Veterans History Project, first of all, which is done in the Archive of American Folklife, which is an important part of our collection created by a Federal act of Congress. This was a mandate from both Houses by unanimous vote.

The Civil Rights Project, which is to interview surviving members of the civil rights movement, is also progressing in the Archive of American Folklife and will be an important resource in addition to the 11 million items already there in American history. This is by far the biggest archive on this subject.

We have a very substantial civil rights collection, from Frederick Douglass to Thurgood Marshall's papers, in the Library. So there is the combination of a base of analog material and the manuscripts that are the biggest, most heavily used collections in the manuscript section. Across the Library, the oral history and Civil Rights Project is moving ahead.

We already have the only oral history ever of former slaves, which was conducted pre-World War II, which is a priceless collection and widely disseminated and widely available.

Mr. DIZARD. I can briefly talk about the Veterans History Project. We are at about 80,000 collections now. We get about 125 collections a week. We have about 11,000 online. And for fiscal 2012 we will be concentrating on the Korean War and women veterans; and then we have also a very good, robust project with military chaplains as an emphasis.

And on the Civil Rights Oral History Project, we have completed the survey of institutions around the country that have civil rights oral history collections, about 1,500 collections at 600 institutions. The Smithsonian has begun the first part of their interview process; and we are jointly, with the Smithsonian, developing a collections management plan. Good progress on that.

COPYRIGHT SMALL CLAIMS PROCEDURE POLICY INITIATIVE

And I think we wanted to recognize the Register on the small claims court issue.

Ms. PALLANTE. Mr. Bishop, the small claims procedure policy initiative I think is an example of how we, on the one hand, meet our day-to-day activities as an institution and, on the other hand, are always focused on the mission. So that initiative is being done in support of the Judiciary Committee of the House under Chairman Smith and Ranking Member Conyers.

And really the main reason is because copyright is useless unless one can enforce their copyright. We know that litigation costs are going up; and we also know that the system is supposed to serve both book authors, songwriters, and photographers on this end of the spectrum and major motion picture and software companies on this end. So the small claims procedure, as you identified, is meant to really help those at the lower end in support of our Nation's culture.

Mr. BISHOP. How is it progressing?

Ms. PALLANTE. It is right on track; and it will be delivered in about a year-and-a-half, a nationwide effort.

Mr. CRENSHAW. Thank you.

We have one final question from Mr. Price.

Mr. PRICE. Thank you, Mr. Chairman.

Good morning. Glad to see you, Dr. Billington.

OVERSEAS OFFICES AND DOCUMENTATION OF ARAB SPRING

I have a question having to do with your overseas operations. You are well acquainted with the House Democracy Partnership, which Congressman David Dreier and I have led on a bipartisan basis for the past 5 years, and you are well aware that we have worked with the library and with the CRS in offering consultation services and support to parliaments in emerging democracies to strengthen their information resources, their libraries. In fact, your office in Jakarta was an important consultant to the parliament in East Timor as we worked with them to give to them for the first time a research capacity. So we appreciate the role of the overseas offices.

One thing that struck us on our visits to Jakarta was the extensive collection efforts that are underway in that country. Unconventional collection efforts, that probably cannot be realized without some kind of presence of that sort in the country, pamphlets, periodical literature, the documentation of social and political movements that will be invaluable in the future. And, it is hard to imagine that material being collected in any other way.

I wonder if you are in a position—or to what extent you are in a position to do similar work on the various components of the Arab Spring. To what extent do you have a presence there, an effort underway there? And how does your budget affect all this? What has been the impact of the budget constraints on operations like Jakarta and the kind of new operations that one might imagine your being involved in?

Dr. BILLINGTON. We have had to reduce the acquisitions budget between 7 and 13 percent, which impacts these various overseas of-

fices' ability to collect. This does affect our depth of new acquisitions. These offices are always headed up by an American, but they have very expert, linguistically diverse local employees who are on the ground collecting ephemera—ephemera is what we call it technically, but these are the pamphlets, the unusual publications, and the placards, the information resources which are so dynamic now.

Our Cairo office is headed by a really magnificent young fluent Arab speaker with an Egyptian wife who is acquiring tremendous material.

Mr. PRICE. What is the extent of that operation in Cairo and to what extent does it cover Tunisia or other countries?

Dr. BILLINGTON. It collects throughout the Arab world.

HISTORY OF ARAB AND ISLAMIC SCIENCE ON WORLD DIGITAL LIBRARY

We have also useful information on this part of the world on our privately funded World Digital Library, which is putting online the history of Arab and Islamic science, which was for five or six centuries the best in the world, areas like astronomy and medicine and so forth, something the authoritarian regimes in the Arab world have not shared with their own people.

But we are putting this information online, and we are getting tremendously fascinating material from the National Library of Egypt, as well as the library in Alexandria, the National Library of Iraq, and other libraries throughout the Arab world. The King Abdullah University in Saudi Arabia has set up a program, which we have had a considerable hand in developing, because we are collecting from a variety of places. Also, the British library and other European libraries have provided priceless documents. So we are reuniting all of this; and the Cairo office is playing a major role in gathering the material.

You mentioned Indonesia. The Indonesian example is particularly striking because information and knowledge is recorded there in all kinds of media, even palm leaves. So we collect in the wide variety of ways in which people are expressing themselves.

And in the Arab world we have a very vigorous presence. Arabic is one of the languages of our World Digital Library, which is an extension of our National Digital Library. It has online 17 million items of American history and culture, and it is the same metadata system which we have set up so that anybody who can access the Arab material will also discover very easily and internally, within the same system, the American material.

LOCAL ACQUISITIONS CAPACITY ABROAD

So it is a two-way street, and it is very dynamic. And the overseas offices are really important not just to the Library of Congress, not just to the Congress, but to the United States of America, in getting material that can help us understand these very fast-moving, very dynamic areas, which are heavily employed with the social media. Because of the overseas presence we are able to learn more about and help the American community broadly understand what is happening.

Our collection of ephemera in Russia—we do not have an office there—but it has been extraordinary. And the ephemera and the new media have played a role there.

We also have a substantial online collection from Brazil, our most dynamic partner in the Western Hemisphere. But that collection was privately funded, not funded through the appropriations.

The offices around the world are tremendously important for acquisitions, and acquisitions in a variety of formats may be the most important ways of finding out what people are really thinking. So really this is an area where we cannot afford to decrease.

I am very happy to be supportive of and provide research backup for the democratization project. And the genuine striving of the new people. We are providing things to the dynamic young people who are entering for the first time the stage at which they can help make history and make changes, and to get what they say to us. The communications that these local offices can take advantage of in these communities is really invaluable.

Mr. CRENSHAW. Thank you so much, Dr. Billington. I know I have some more questions that I will submit for the record. I am sure other members do, too. But I want to thank you for being here today and giving us your testimony. Thank you for bringing your staff members. Congratulations to all those that are new to leadership positions. We look forward to continuing to work with you.

Dr. BILLINGTON. Thank you, Chairman Crenshaw, and others. Thank you very much.

Mr. HONDA. Mr. Chairman, I thought maybe they could send us a one-pager on a response to that question folded into the Internet and how the effort of getting information from the Internet relates to this question.

Mr. CRENSHAW. That would be great. I am sure they would be happy to do that.

[CLERK'S NOTE.—The information is included in the questions for the record.]

[Questions for the record submitted by Chairman Crenshaw follow:]

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Questions for the Record
Chairman Ander Crenshaw

RESIDENTIAL SCHOLARS CENTER

Question. Dr. Billington, the Committee on House Administration and the Joint Committee on the Library, at the Library's request, has approved the renovation of the Special Facilities Center for use as a Residential Scholars Center and a child daycare center. The Committee has had some concerns about this project and that being the business plan, construction costs, operational issues, and the Child Care Center. Would you explain what the objectives of the project are?

Response: The Library's interest in the building, which is owned by the Architect of the Capitol (AOC), has always been to broaden access to the Library's unique collections and expertise by providing affordable housing at prices well below local hotels and rental apartments. This goal represents a congressional authorized use of the building which was last renovated in 1965.

Congress provided funding in 1990 for the AOC to purchase a nearby former school building at 601 East Capitol Street to house a day care center and for purposes relating to the operations of the Library of Congress. P. L. 101-520 was amended two years later to authorize use of the building for "temporary living quarters for visiting scholars". Planning for this project has a long history, beginning with the first conceptual design plan developed by the AOC in 2003. In 2006, the Joint Committee on the Library approved the Library's private fundraising for the building's renovation. That same year, the Library also began operational and business planning, including consultation with industry experts, development of an operating model, as well as a detailed survey of eligible populations, particularly teachers and researchers from all over America who are familiar with the Library's online collections but can least afford to spend any extended time in Washington, D. C.

Question. The normal sequence of events in the private sector is that a business plan is developed looking at competitive market factors, operating expenses and capitalization costs before obligating themselves to a continuing stream of bills. The Library seems to have taken the opposite approach. What is your response? Why shouldn't you finish the business plan before you create something that may not be economical and eventually result in an expense for the American taxpayer?

Response: The Library developed an operational and business plan in 2006, after the first conceptual plan was presented by the AOC. Development of that initial business plan included: consultation with industry experts; surveys of all available housing options; detailed consultation and surveys of target populations; survey of all Library fellowship and internship programs; examination of more than 30 public and private operating models for specialized residential facilities; and broad consultation with community and preservation groups on Capitol Hill

Working with industry experts and the AOC, the Library's projections for revenue and expenses were developed in line with the respective statutory authority of the AOC and the Library of Congress. As part of Library buildings and grounds (2 U.S.C. 141 and notes), the AOC is responsible for the structural integrity of the building, all building systems, compliance with building and fire codes, and care and

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maintenance of the grounds. The AOC currently provides all of these services at the Special Facilities Center and has done so since the building was acquired in 1990, including renovation of the lower level for the child care center, Little Scholars, asbestos abatement in the upper levels, and utilities and maintenance for the building and grounds.

Question. How will the Library fund the operating cost and what, if any action, are you going to take regarding our concerns?

Response: The Library has taken a comprehensive approach to developing plans for the Center's design, construction estimates, operating model, and related operational and business plans. An initial business plan was developed as one of many steps that are contemplated in the broader approach to realizing the vision for the center. Developing a more robust, detailed, and sophisticated business plan is also contemplated in this broader approach, but that step is planned for a later point in the process. In order to explain how the Library will address the Committee's concern, we would like to describe the overall plan and approach for achieving success with the Center.

The Library of Congress briefed the Joint Committee on the Library in 2006 about a possible donor willing to fund necessary design work to develop a capital budget and complete design for renovating the entire building, including the Little Scholars center (at no cost to Congress, the child care board, or parents). The Joint Committee approved the Library's proposed private fundraising campaign which was formally announced in 2008. The business plan was revised as the design progressed to include 50 residential units on three upper floors, including building out above the school gymnasium. In March 2008, the Library provided an update on its progress to the House Legislative Branch Subcommittee and launched its capital campaign, with a construction estimate of \$17.3M based on a conceptual design developed by Bowie Gridley Architects and funded by a grant of \$3.2M from the Cafritz Foundation.

As design work progressed to 50% complete construction drawings, in accordance with the AOC Design Manual, the Library, AOC, and the architect presented the building's proposed design to both local community and preservation groups on Capitol Hill. The Library of Congress believes it has followed the correct sequence in order to be able to plan and execute a successful fundraising campaign for the capital renovation, sufficient to be able to transfer funds for the AOC's official government estimate of \$20.9M, which includes AOC construction management costs, necessary contingency allowance, A&E services, and necessary funds for fixtures and furnishings to complete the residential portion of the building.

Once the Library receives approval to transfer funding to the AOC and begin construction of the facility, we will immediately set to work in procuring an operating contractor who will refine the Library's operational cost and revenue assumptions and finalize the business plan. During this period, the Library will also have ample time to build reservations a year in advance of when fellowship awards are made.

In developing our fund raising goal, the Library has also included an opening fund balance of \$250,000 as part of its plan for a self-sustaining operation of the residential portion of the building. The Library examined more than 30 public and private operating models for specialized residential facilities. We have also reviewed construction estimates and operational issues in accordance with industry

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standards; completed a design that will provide 50 modest units for researchers and teachers from all over America in an affordable, safe, and centrally located residence in our high-priced city. Room rates, depending on length of stay and size of unit, will range from \$40-\$80 per night, within the price range of 70% of the surveyed potential residents.

The Library believes that we have completed the necessary high-level analysis, and that the sequencing of steps in our overall approach will both ensure the success of the project and mitigate any potential risk to the Committee or the taxpayer. We have the funds assured for the AOC's official construction estimate. AOC is ready to begin procurement for construction in a market that still appears to be competitive. Once the transfer of funds is approved, the Library will procure an operating contractor and finalize a detailed business and operating plan, well in advance of the building's opening.

BUSINESS OPERATING PLAN

Question. A business plan should clearly define the operating goals, objectives, scope and a detailed description on the strategy for achieving and sustaining those goals and objectives. How does the Library's December 2011 business plan meet those goals and objectives?

Response: The Library has drafted a three-year operating plan that accompanies the December 2011 Business Plan. The operating plan addresses the strategy for procuring an independent contractor and for organizing the Library's multiple constituencies that might utilize the Residential Scholars Center. The latter is an essential component to achieving the target of 85% occupancy upon which the Business Plan is based. The objective of the Business Plan is also to provide affordable room rates, within range of the identified parameters from the Library's surveys of its largest potential constituent groups, including summer fellows and Kluge Fellows. When all of the operating expenses are identified (i.e. when a contract is awarded for operating the residence), the Library of Congress will further develop the Business Plan.

Question. Has an independent review conducted on your business plan? If not, why not?

Response: The Business Plan incorporates substantial work by an independent contractor. The Library will seek additional external review once it is clear that construction will proceed and final construction costs are known.

Question. What assurance does the Committee have that your estimates for revenue, operational cost, overhead (both Library of Congress and the Architect of the Capitol) are accurate and reflect a detailed analysis, with supporting documentation, to sustain a viable operational facility?

Response: The Library is comfortable with the Business Plan calculations and assumptions, including initial cost and revenue projections, and we can assure the Committee that no financial burden will come back to the Committee (and the taxpayers) relating to the center's operating model. The only

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future financial burden that will come before the Committee in terms of appropriated funding will be related to AOC's existing and future responsibility with respect to the building and grounds. As mentioned in the response to an earlier question, as part of Library buildings and grounds (2 U.S.C. 141 and notes) the AOC is responsible for the structural integrity of the building, all building systems, compliance with building and fire codes, and care and maintenance of the grounds. The AOC currently provides all of these services at the Special Facilities Center and has done so since the building was acquired in 1990, including renovation of the lower level for the child care center, asbestos abatement in the upper levels, and utilities and maintenance for the building and grounds.

The Library will take full responsibility for the operational costs of the center, which are intended to be covered with rental income, and can assure the Committee that no related financial burden will fall back on the Committee.

National Film Preservation Foundation

You have requested increased funding of \$470 thousand bringing the total to \$1 million dollars for the annual grant to the National Film Preservation Foundation.

Question. What are the duties and responsibilities of the National Film Preservation Foundation?

Response: The National Film Preservation Foundation is the independent, nonprofit organization created by the U.S. Congress in 1996 to help save America's film heritage. It works directly with cultural institutions throughout America to rescue historically significant "orphan" films that would not otherwise survive without public support — silent-era works, industrials, documentaries, newsreels, home movies, and independent productions. Through the NFPF programs, 1,870 films have been preserved and shared with the public through screenings, exhibits, DVDs, broadcast, and the Internet.

The NFPF offers film preservation grants to American nonprofit and public institutions of all sizes and experience levels. Awards are made by expert panels, recruited from the scholarly and technical communities. Some 239 archives, libraries, and museums across all 50 states have received NFPF grants; for most, NFPF grants make possible their first film preservation project. The NFPF grants are supported through funds authorized by *The Library of Congress Sound Recording and Film Preservation Programs Reauthorization Act of 2008* and secured through the Library of Congress, and donations from the entertainment industry and other contributors. The NFPF uses no monies received through the Act to administer its programs.

The NFPF also secures outside grants to publish DVDs and books that promote education and film preservation. Probably best known is the NFPF's award-winning *Treasures from American Film Archives* DVD series, which makes available superb examples of preservation work from the archival community. The NFPF give free copies of its publications to all state libraries. In addition, the NFPF coordinates international projects to recover and make available American silent-era films that no longer survive in the United States. To date, 184 American films have been repatriated through the NFPF, including lost films by John Ford, Alfred Hitchcock, and Mabel Normand.

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The NFPF uses all monies received through its federal allocation for grants and preservation work and raises every penny of operational costs from other sources. It consults regularly with the Library of Congress and submits an annual report to Congress. The reports, audits, and IRS filings are available on its web site www.filmpreservation.org, along with grant information and sample films saved through its programs.

Question. Who are the current members of the board?

Response: The current members of the Board of Directors of the National Film Preservation Foundation are:

Roger L. Mayer, Chair
Cecilia deMille Presley, Vice Chair
Julia Argyros
Hawk Koch
Leonard Maltin
Scott M. Martin
John Ptak
Robert G. Rehme
Eric J. Schwartz
Martin Scorsese
Paula Wagner
Alfre Woodard
James H. Billington, The Librarian of Congress (ex officio)

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Question. How often does the board meet with the Librarian of Congress?

Response: The NFPF board meets with the Librarian or his representative once a year.

Question. What were the FY 2011 activities of the Foundation?

Response: The Foundation awarded grants to 60 institutions to help save and make available 101 American films that might otherwise have been lost. Among the titles slated for preservation are *With Allenby in Palestine and Lawrence in Arabia* (1919), the Lowell Thomas documentary that made T.E. Lawrence a household name; performances by Duke Ellington and Mahalia Jackson at the first New Orleans jazz festival; a George Wallace presidential campaign film; a 1925 newsreel about the Buffalo Soldiers of Fort Huachuca, Arizona; Robert Gardner's portrait of the Boston marathon; a 1926 tour through the Anaconda Copper Mining Company plant in Great Falls, Montana; *The Drums of Winter* (1988), profiling the Yup'ik of Alaska; a look inside the high-security facility that printed U.S. paper money in 1915; early computer animations by Lillian Schwartz; and home movies showing African American communities in post-Pearl Harbor Honolulu; rituals of the *Penitentes*, a secret Catholic society in the Southwest; small-town life in South Dakota, and other subjects that generally fall under the radar of the mainstream media.

The Foundation repatriated some 100 "lost" American silent-era films discovered at the New Zealand Film Archive. Among the major finds announced this year were 3 reels of *The White Shadow* (1924), the earliest surviving feature linked to Alfred Hitchcock (its assistant director, writer, editor, and art director) and the 2-color Technicolor *The Love Charm* (1928). Over the past 2 years, the NFPF has returned 176 titles to the United States for preservation—about 70% of which are reported to exist nowhere else. As film-to-film preservation work is completed under the supervision of the 5 participating U.S. nitrate archives, the NFPF makes copies available on the web. Most work is being supported through grants and private donations. The National Society of Film Critics and the Pordenone Film Festival honored the NFPF-led collaboration with awards.

The Foundation released *Treasures 5: The West, 1898-1938*, a 3-DVD box set presenting the West as it was imagined and recorded in early movies. The 40-film, 10-hour anthology is the fifth in the NFPF's award-winning *Treasures* series, through which archives join forces to make long-overlooked works available to the public on DVD with new audio commentary, music, and film notes. The set has received stellar reviews in publications including *The New York Times* and *Cahiers du cinéma* to *The Onion*. *True West* named it the year's "Best Classic Western" DVD. Copies were given to state libraries. Net proceeds support further film preservation.

Fort Meade Collections Transfer Program

Question. You are requesting to retain \$1.715 million that has been provided annually for the past three fiscal years, scheduled to non-recur in fiscal year 2013, be continued for another two years to continue the transfer of special collections materials to the Ft. Meade storage modules. Why were you unable to complete the transfer of materials within the three years provided?

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Response: There are three activities associated with the transfer of special format collections from Capitol Hill and the Landover Center Annex to Ft. Meade: physical transfer of the trackable containers; rehousing items that are brittle and in need of stabilization; and inventory control to ensure accurate tracking and circulation. By the close of fiscal 2013 the physical transfer of collections will be completed as anticipated and on schedule. However, inventory control and rehousing/stabilization activities will continue at Ft. Meade for an additional two fiscal years. The request for \$674,000 in fiscal 2013 is to make significant progress toward the completion of both of these phases. At the end of fiscal 2013 the majority of the special format collections will have been moved, properly housed and stabilized, and have complete and, where practical, integrated inventory records.

Until Module 5 at Ft. Meade is funded and constructed, the Library has established an interim collection storage area at the Landover Center Annex. This will allow for material to be housed in the same configuration and using the same tracking database as that currently in use at Ft. Meade, and will facilitate the transfer of collections from the interim storage area to the permanent Module 5 once that facility is operational. The \$1.041 request for each of two years will allow the Library to inventory, process and transfer approximately 800,000 books and bound periodicals from severely overcrowded areas on Capitol Hill to this interim facility. While this is only a partial solution to the overcrowding conditions currently being experienced, it represents one of a number of initiatives that the Library is pursuing to continue to acquire and make accessible collections pending the construction of Module 5.

Question. What assurance do we have that you will be able to complete the transfer within the next two fiscal years?

Response: As stated above, the Library will complete the physical transfer of special format collections to Ft. Meade Modules 3 and 4 by the close of fiscal year 2013. The funding requested for fiscal years 2013 and 2014 will allow the completion of the associated tasks involved with ensuring the proper housing and inventory control of these collections.

Preservation

Question. The Preservation Directorate during fiscal year 2011 developed and taught three new courses: one for the University of Maryland, one for the Federal Library and Information Center Committee, and one for the Open World Leadership Center. Are these services provided on a reimbursable basis? If not, why not?

Response: They have not been provided on a reimbursable basis. The Library could charge for some of this work under a range of limited authorities described below, however these authorities are nuanced and difficult administratively to put into practice.

The training the Library provided to the Federal Library and Information Center Committee (FEDLINK) and to the Open World Leadership Center could be reimbursed, because both of these organizations are federal agencies. The Library could also legally seek reimbursement for its staff time for teaching a course for the University of Maryland, using an Intergovernmental Personnel Act (IPA) agreement.

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In these examples, reimbursement would be authorized under three separate statutes – the FEDLINK revolving fund (2 U.S.C. § 182c), the Economy Act (31 U.S.C. § 1535), and the Intergovernmental Personnel Act (5 U.S.C. § 3372).

Each authority has limitations. The FEDLINK authority only allows federal employees to attend training. The Economy Act authority is only available to federal agencies and has strict fiscal year limitations. The IPA authority is essentially a detail of the Library instructor to the university for the hours it takes to teach the class – a complex approach and one that only allows for recovery of salary costs, not non-personals associated with developing and providing training. All three authorities only allow the Library to charge the organizations for the training, not the students.

Question. Does the Library need legislative authority in order to get reimbursed for this type of activity?

Response: Yes. The Library needs uniform legislative authority to allow people other than federal employees to attend its fee-for-service training; to recover both personal and non-personal costs; and to allow attendees to register and pay directly or, when it's more efficient, to enter into agreements with educational institutions to teach courses on a fully reimbursable basis.

Global Legal Information Network (GLIN)

Question. You receive annual authority of up to \$350 thousand of receipts collected for the development and maintenance of an international legal information database and related activities (known as GLIN). In fiscal year 2011 you collected \$15 thousand dollars. Is there little or no interest in this activity?

Response: GLIN is a multinational consortium where most members digitize their laws, create English and native language summaries and metadata, and input this information directly into the GLIN database. Members from participating foreign jurisdictions contribute resources in-kind, based on the shared principle that it is the duty of governments to provide free and open access to laws, so that citizens know the laws that govern them.

There are two types of GLIN membership: Contributing and Associate. Contributing members are required only to make in-kind contributions to GLIN. Contributing Members are generally national governments or international organizations. GLIN Associate Memberships are available for institutions that are interested in supporting the continued growth of GLIN. In exchange for an annual monetary contribution of \$2,500, Associate Members are given access rights to all materials in GLIN (some of which are restricted to Contributing Members only); invitations to attend the annual GLIN Directors Meetings as observers without voting privileges; and the GLIN newsletter.

The GLIN website encourages interested institutions to become Associate Members. At national and international conferences, institutions are also invited to consider GLIN membership in the appropriate category. However, GLIN has been unsuccessful in attracting many developed nations or a sufficient number of participating institutions (international organizations, university law libraries, etc.) who are able to provide the funds on a scale necessary for further development and sustained maintenance of GLIN.

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In fiscal 2010, the Congress provided \$700,000 requested by the Law Librarian to conduct a study of GLIN. The study concluded that GLIN has achieved some moderate accomplishments through the years, such as building a corpus of authenticated primary legal materials from a core group of jurisdictions; providing the only online source for some nations' laws; and building a successful network among nations/entities from differing geographical locations, and with different languages and legal systems. However, the study also found that the GLIN network and its database are not an effective means of serving the current needs of Congress. The database does not contain material from many jurisdictions most needed by Law Library researchers and analysts to serve their congressional clients. This has been part of the impetus for the Law Library to migrate to the next-generation Law.Gov portal capability.

Question. How much does the Law Library expend annually on this activity?

Response: Since its inception (FY 1996-2011), the average annual GLIN expenditure by the Law Library of Congress has been \$1.42 million, mainly for system costs. A small percentage of this total has been expended on travel-related and other promotional costs that were mechanisms to assist in generating member receipts and other dollar contributions for the development and maintenance of an international legal information database.

The Law Library will continue to require offsetting collection appropriation authority as the next generation foreign and comparative legal research protocol evolves to the Law.Gov portal capability, which is being designed to better serve the legal research and analytic needs of the Congress. It is anticipated that university law libraries, tribal sovereigns and transnational jurisdictions will contribute to the development and growth of the Law.Gov portal.

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Question. Provide for the record, since the beginning of this activity and by fiscal year, the name and amount collected for the GLIN project.

Response:

Fiscal Year	Institution	Collection Amount
2004	National Assembly Library of Korea	\$1,000
2004	Pan American Health Organization	\$5,000
2005	Pan American Health Organization	\$5,000
2006	Hastings College of Law	\$2,500
2006	Pan American Health Organization	\$5,000
2006	University of Iowa	\$2,500
2007	Brigham Young University	\$2,500
2007	Pan American Health Organization	\$5,000
2008	Brigham Young University	\$2,500
2009	Brigham Young University	\$2,500
2009	Pan American Health Organization	\$5,000
2009	University of California - Berkeley	\$2,500
2009	George Washington University	\$2,500
2009	University of Notre Dame	\$2,500
2010	Brigham Young University	\$2,500
2010	Columbia University	\$2,500
2010	Boston University	\$2,500
2010	Pan American Health Organization	\$5,000
2010	Harvard University	\$2,500
2011	Boston University	\$2,500
2011	Pan American Health Organization	\$5,000
2011	George Washington University	\$2,500
2011	Brigham Young University	\$2,500
2011	Columbia University	\$2,500
2012	Boston University	\$2,500
2012	Pan American Health Organization	\$3,500

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Annual Financial Audit

Question. The Office of the Inspector General chaired a group of Inspectors General and financial executives from agencies cross-serviced by the Library's financial system to develop and award a contract to a single independent public accountant to audit the financial statements of the participating agencies. This effort resulted in a contract that will save the participating agencies a total of \$1.9 million over the life of the contract. What is the life of the contract? Who was the award made too?

Response: The contract award is for the base fiscal year 2011 financial statements (FS) audit with four option years (fiscal 2012-2015). The participating agencies awarded the audit contract to Clifton Gunderson LLP (now CliftonLarsonAllen [CLA]), a top twenty national accounting firm with an extensive history of federal agency and legislative branch agency audit experience.

Question. What was the Library's savings?

Response: The table below provides actual and estimated savings. Fiscal 2011 actual savings are based on a previously existing contract in the amount of \$408,780. Subsequent years' (2012-2015) **estimates** are based on a 3 percent annual escalation of the 2011 base, as compared to CLA's proposal.

Fiscal Year	LOC IGE *	CLA Fees	Estimated Annual Savings
2011	\$408,780	\$318,462	\$90,318
2012	\$421,044	\$329,139	\$91,105
2013	\$433,675	\$342,305	\$91,370
2014	\$446,685	\$355,997	\$90,688
2015	\$460,086	\$370,236	\$89,850
Total	\$2,170,270	\$1,716,139	\$454,131

***Independent Government Estimate**

Question. Why is there not a reduction in the IG budget for these savings?

Response: The Office of the Inspector General (OIG) has sustained budget cuts in fiscal 2011 and 2012 consistent with those across the entire Library, however 85% of the OIG budget of \$2.8 million is comprised of pay, making it difficult for the office to flexibly absorb such cuts and still meet mission requirements. Audit savings of \$90,000 offset the overall OIG reduction in fiscal 2011, resulting in a net available savings amount of \$33,300. In fiscal 2012 the cumulative reduction (including the cost of absorbing mandatory pay and price level increases) is more significant. Factoring in the audit savings, the OIG has sustained a net reduction in fiscal 2012 of approximately \$90,000 or approximately 3%, which is less than others in the Library.

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Question. Provide the annual savings for each agency resulting from this new contract.

Response: The projected savings for the other agencies are:

	2011 IGE*	CLA Fees 2011	Diff 2011	Projected Five Year Savings
USCP	\$480,000	\$312,880	\$167,120	\$835,600
CBO	113,453	36,380	77,073	385,365
OWLC	33,768	17,184	16,584	82,920
JMC	28,134	15,152	12,982	64,910
Total	\$655,355	\$381,596	\$273,759	\$1,368,795

*Independent Government Estimate

Office of the General Counsel

In your budget justification you state for fiscal year 2011 "that the Office of the General Counsel has been engaged in substantial litigation, in particular on constitutional aspects of the Copyright Royalty Judges". You further state that fiscal year 2012 may require the same level of effort including the Register of Copyrights.

Question. What are the issues surrounding this litigation?

Response: In addition to merits challenges to ratemaking by the Copyright Royalty Judges, two cases (one in the District Court, one in the Court of Appeals) challenged the constitutionality under the Appointments Clause of the Librarian's appointment of the Copyright Royalty Judges. This challenge has two aspects: whether the Judges are "principal officers" required to be appointed by the President and confirmed by the Senate; and, if they are "inferior officers," whether the Librarian of Congress is the constitutional "Head of a Department" with authority to appoint them.

Question. Why does the Library's OGC provide these services to the CRJ?

Response: These are services that are rightly the role of the Library's OGC. The OGC has a duty to provide legal analysis and related support to the Librarian and to the Department of Justice when the Librarian or the Librarian's authority is the subject of litigation. Librarian James H. Billington was a defendant in the district court case and is an appellee in the Court of Appeals, and the challenge is to his authority under the Appointments clause. The ruling has the potential to have substantial implications for multiple service units, and is properly handled at the Library level.

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Moreover, the governing statute, 17 U.S.C. 801(d), expressly provides that "The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter."

Question. Has the Library been reimbursed by the Copyright Royalty Judges for cost associated with the litigation? What are the issues involving the Register of Copyrights.

Response: The Library has absorbed all costs associated with the litigation. It is possible that the Appointments Clause challenge to the Copyright Royalty Judges could have implications for the Librarian's appointment of the Register of Copyrights.

Question. The Committee provides funding for a General Counsel and staff within the Copyright Office, what is their level of engagement regarding this issue? Why is the issue not being totally handled by the Copyright General Counsel?

Response: The Register and her staff have been deeply involved in these cases in coordination with the Library's OGC. However, the principal issue in these cases is the constitutional challenge to the Librarian's appointments of the Copyright Royalty Judges. As noted above, this raises questions about the Library, its multiple units, and the authority of the Librarian of Congress, and is therefore an important point of focus for the Library's OGC.

Question. Provide for the record the total number of staff within the Copyright General Counsel, the position titles, grades and salaries, and responsibilities/job description of each position.

Response: The Office of the Copyright General Counsel currently consists of 9 attorneys and 2 support staff. The attorneys range in grades GS-13 through 15 and the Copyright General Counsel is a senior level position. The support staff include a GS-08 secretary and a GS-07 computer assistant. The attorneys in the office execute numerous statutory duties pursuant to title 17 of the U.S. Code, including advising the Register of Copyrights on technical questions of copyright law and policy; drafting and promulgating Copyright Office regulations (including notice and comment rulemaking proceedings) related to the copyright registration and recordation systems, statutory licenses and other Office functions; assisting the Department of Justice in litigation involving the Copyright Office and copyright law and policy matters; conducting the rulemaking proceeding to determine exemptions from the prohibition on circumvention of technological measures that control access to copyrights works under 17 U.S.C. § 1201(A)(1); providing expert advice to Congress relating to legislation concerning copyright and other matters in title 17 of the U.S. Code; preparing comprehensive legal studies at the request of Congress on various copyright and other matters relating to title 17; preparing testimony for Congressional hearings, review for legal error of final determinations of the Copyright Royalty Judges as well as preparation of responses to requests from the Copyright Royalty Judges for interpretation of material questions of substantive law; review of final requests for reconsideration of refusals to register copyrights, legal advice and counsel to the various divisions of the Copyright Office, other parts of the

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Library of Congress and other parts of the federal government, and public education relating to copyright law and policy.

Recent litigation in which the Copyright Office played a key role advising the Department of Justice include the proposed Google Book Search Settlement, and the Supreme Court cases of *Golan v. Holder* (involving the constitutionality of 17 U.S.C. § 104A) and *Costco Wholesale Corp. v. Omega, S.A.* (involving the interplay between the first sale doctrine codified in 17 U.S.C. § 109 and the exclusive right to import copies of copyrighted works codified in 17 U.S.C. § 602).

Residential Scholars Center

Question. Please explain the involvement of the U.S. Capitol Police and the Architect of the Capitol Fire Marshall in the design review process and explain the extent to which their concerns and comments were considered and fully addressed.

Response: The U. S. Capitol Police and all AOC departments heads and the AOC Fire Marshall reviewed the 100% construction drawings. The Chief of the U. S. Capitol Police was briefed by Inspector Reynolds, then Inspector for the Library of Congress operations. The chief approved the plans but requested additional security “hardening” for the design, including shatter-proof coating for the windows. The requested additions will be added by amendment to the construction design before procurement of construction bids by the AOC.

The AOC Fire Marshall requested additional calculations on the flow capacity of the existing fire pump in the building. The project A/E, Bowie Gridley, and its sub-contractor provided preliminary calculations indicating that the existing fire pump would be sufficient. Further calculations by the sub-contractor were needed to resolve the Fire Marshall’s concerns; this additional work was not within the scope of the A/E’s design contract. The necessary work has been added to the proposed amendment to the construction contract scope of work, along with the security enhancements requested by the Chief of the U. S. Capitol Police.

Question. Does the Library consider the construction cost estimate and schedule to be comprehensively reflective of all construction project requirements? If not, what costs are excluded from the estimate?

Response: The Library’s A/E contract with Bowie Gridley included construction estimates prepared by US Cost in accordance with AOC standards. The AOC further refined the estimates and presented its final official estimate in 2011. The Library of Congress believes the estimate is comprehensive.

Question. While the Center will have two distinct functions (residential and childcare), explain how the Librarian plans to keep these two functions separate and provide the necessary security for the daycare children, including security at exterior playgrounds. Please include whether all stakeholders, including the daycare director, U.S. Capitol Police, the Capitol Hill Historical Society, and the neighboring community, are in agreement with your plans.

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Response: The scope of work for the building's design required the complete isolation of the child care center from the residential sections of the building. There are no common points of access, including elevator and emergency access. The child care center director was a member of the design team and provided all of the child care center's requirements which have been incorporated into the design drawings. Security for both the child care center and the residence will be provided by the Library's Office of Security and Emergency Preparedness, the plans for which have been approved by the U. S. Capitol Police.

The Library and AOC presented the plans for the renovation and operation of the building to both ANC 6B and ANC 6C, to the Capitol Hill Restoration Society, and to the broader community at a town hall meeting held in the gymnasium at the facility. The major concerns expressed at all of the meetings and briefings focused on parking and construction impact. The design and plans for the renovation of the building were generally well received. The planned renovation will add no additional parking needs to the neighborhood because residents will not be allowed to bring vehicles with them. The AOC explained its construction management requirements to address concerns regarding noise, trash, pest control, and street disruption from construction vehicles. The Library has a web site designed that would provide daily updates and provide a widely available communications vehicle for updates and complaints.

Question. Is the Library's business planning parameters for operating costs (e.g. building operations and maintenance, program operations, capital costs, etc.) complete such that all the estimated direct and indirect costs have been comprehensively identified and that the Library's established planning parameters for operating revenues (e.g. room rates, length of stays, occupancy percentages, market conditions, etc.) have been studied such that operating revenue will fully cover those annual recurring costs, long term cost plus the contractor's cost? In the event the Library's business planning assumptions (define what those are for both cost and revenue) are not met, for example, the demand by scholars to stay at the RSC is not fully realized, what contingency plans are there for the use and funding of the space and its costs?

Response: The Library's business planning has been developed in accordance with the statutory authorization for its operation and that of the AOC. The revenue and expense projections include affordable room rates, anticipated 85% occupancy, contractors costs, and metered portion of utilities and maintenance appropriate to the square footage occupied by the residential portion (approximately 70%). The plan does not currently include capital repair or replacement as these are the owner's (AOC) responsibility.

The greatest risk is the first year of operation. The Library proposes to procure a contractor a full year in advance of opening so that reservations can be made and occupancy projections confirmed. Fellowship opportunities are generally extended 9-12 months in advance and would allow the Library to market the facility for the following year. The Library has built an opening balance of \$250,000 into its capital budget and secured a major gift (and will seek others) to provide specific support for scholars and younger fellows in need of financial assistance. If the Library were allowed to provide training at cost, the facility could also be used to house much-needed training programs.

Question. Is the Library's business plan proposing that the Library or other Legislative Branch entities fund any building operations or maintenance out of appropriated funds?

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Response: Only the AOC's statutory responsibility for Library buildings and grounds. The facility and its systems will be brand new and can be expected to need minimal capital repair for 50 years with proper maintenance. The Library's business plan includes an annual reserve of \$75,000 for repair and replacement of furniture and fixtures.

Question. Are there any additional legislative authorities needed to operate the RSC on a self-sustaining basis or the ability to reimburse other Legislative Branch entities for services they perform for the RSC? If so, please identify them and the justification for them?

Response: Providing the Library with authorization to provide and charge for training would enlarge the scope of potential revenue for the facility.

[Questions submitted for the record by Ranking Member Honda follow:]

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Questions for the Record
Mr. Michael Honda, Ranking Member

PERSONNEL AND STAFFING

Question. The LOC budget request shows a reduction of **150 FTEs** in the Office of the Librarian from the FY 2012 level. Why does a reduction in staff of 150 FTEs only reflect a \$259 thousand reduction in funding?

Response: Most of the Library's unfunded FTEs are centrally held in a reserve in the Librarian's Office. The total FTE reduction across the Library in the fiscal 2013 request is 189. 150 of the 189 unfunded FTEs were held in an FTE reserve in the Office of the Librarian.

The \$259 thousand reduction in funding represents the net of additional funding requested for mandatory pay and price level increases (\$435 thousand) and reduced funding related to the abolishment of the Workers' Compensation annual base (-\$694 thousand).

Question. Does LOC have plans to employ short term consultants to fill the expertise gaps created after the last two fiscal years of budget cuts?

Response: Operational and workforce planning is underway to determine how best to cover gaps. Service units have consolidated operations, redistributing critical tasks among remaining staff and reassigning staff to other areas to fill voids. Workflows are being adjusted and current personnel are assuming broadened responsibilities. The Library may consider employing short term consultants to fill expertise gaps as a final option, but at the recently reduced funding levels, such options will be difficult to support.

COPYRIGHT

Question. The LOC budget request mentions that work will continue on major negotiations for intellectual property protection in the Asia-Pacific rim. Please provide more detail on LOC's activities in this region, including the participating countries.

Response: Policy experts from the Copyright Office serve on the U. S. negotiating team for the Trans-Pacific Partnership ("TPP"), headed by the Office of the U.S. Trade Representative. A major trade priority for the United States, the TPP addresses mutual intellectual property protection of valuable, creative content. Negotiations involve the following countries: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States. The Office is also a key advisor

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on implementation of existing and pending Free Trade Agreements, as approved by Congress, including a strategically critical FTA with South Korea.

Question. One of the interesting anomalies of the Legislative branch is the Library of Congress' copyright responsibilities. The 2013 budget estimate is that Copyright fee receipts will decrease by \$2 million in 2013 to \$28 million. Why are the receipts estimated to decrease?

Response: The Library is not predicting a \$2 million decrease in fee receipts. The Library is requesting restoration of \$2 million in the Copyright Office's base appropriation. The fiscal 2012 enacted budget directed that up to \$2 million of the Copyright Office no-year account balance be used to offset the fiscal 2012 appropriation for the funding of ongoing operations. That account can no longer offset the reduction in the Office's appropriated funding level.

The Office's fee receipts have declined over the past year, but improving the situation will require a combination of factors, including, but not limited to, an improved economy. Because of electronic commerce and demands for more efficient licensing, copyright registration is of increased interest around the world. The Register of Copyrights has met with directors of Copyright Offices from around the world, is evaluating fees on many levels, and is constructing a business plan to meet the needs of the United States for the short and long term. The systems and services of the Office are built on an information technology infrastructure and must, by definition, be continuously migrated and improved. The copyright registration system is ultimately for the public but it can only be successful if creators participate.

Question. Are the fees cost prohibitive to Americans who would normally copyright materials?

Response: Fees cover a broad range of creators—from individual songwriters and photographers to corporate copyright owners like motion picture companies; and multiple services—from copyright registration to copyright research for licensees or other users. Even modest fees can be prohibitive for some creators, especially if the nature of their work produces multiple copies that may need protection, e.g., photographs. Whether the creative community and/or the user community will pay increased fees is also directly related to what they get for their money. For this reason, the Register of Copyrights is engaged in a robust conversation and strategic evaluation of the legal and practical benefits of the Office's services. Many such services will need to be updated and improved to provide the United States with a Copyright Office for the 21st Century.

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Question. What is the historical trend of copyright receipts?

Response: Fees have decreased at other periods, historically, when the economy was slow. An improving economy may lead to some increase in fee receipts, but cost is a critical part of the equation, as is ensuring the registration has value in the courts and the global marketplace. It is unclear how receipts will be affected in the future if the Office increases fees. If volume is unaffected, higher fees will result in higher receipts; however, higher fees may result in fewer copyright owners filing applications for registration, which could result in higher receipts per application, but lower receipts overall.

STORAGE AND PRESERVATION NEEDS

Question. The LOC budget requests \$1 million for an interim solution to book storage. Have interim solutions been explored that wouldn't cost \$1 million a year?

Response: The Library explored, with assistance from the Architect of the Capitol, renting a turnkey building for collections storage. It was estimated that a 50,000 square foot building located in the DC metro area that meets most if not all of our requirements could be rented for an annual fee of \$700,000 (app. \$14/sq ft) which would be an ongoing annual cost. In addition, a one-time expenditure of \$800,000 would enable the Library (through the owner) to do any necessary customization work along with providing all shelving and related equipment and supplies. There would also be costs for power equipment (high bay lifts, etc.). Interim storage at the Landover Annex is a less costly option.

Question. What happens if the storage modules are never funded?

Response: Without additional storage modules, funding will be required for rental space. If no funding is provided for any kind of storage space, the Library will ultimately have to cease bringing in new items to the collections—representing nothing short of an end to a comprehensive, universal collection and the mission the Library has served for the past 212 years.

Question. The budget request details that in 2013 the Packard Campus will build a 10th audio preservation room. How much is being requested for that purpose?

Response: \$195,000 (this funding is included in the annual Packard Campus equipment base).

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Question. Is this new construction? [if yes] Why isn't that a part of the Architect's budget request?

Response: General level construction of all 11 of the Packard Campus audio preservation rooms was completed by the Packard Humanities Institute before the facility was formally presented to Congress and the Library in 2007. Under the authority of its own appropriations, the Library has been fitting out the interior of these rooms with specialized preservation technologies and equipment, and bringing them online one by one in the intervening years as funding has been made available. This work involves procuring and installing preservation equipment/systems and all necessary cables and wiring. This is work that has been and will continue to be performed across a number of annual systems integration contracts, using funds from the Packard Campus annual equipment base, until all 11 audio preservation rooms are completed. The work involved is not general construction work of the type that requires separate AOC funding or oversight.

Currently 7 of the 11 audio preservation rooms at the Packard Campus have been wired and otherwise fitted out and are now in operation. Two more AV preservation rooms will be outfitted this fiscal year and brought online to increase the general level of audio preservation workflow. Design of the final 2 rooms (the 10th and 11th) will also begin this fiscal year. The plan is to construct the 10th room under a new systems integration contract in FY2013, again funded from the Packard Campus equipment base. As with all the previously completed AV preservation rooms, the 10th room will be outfitted with digital audio preservation equipment. In addition, the 10th room will be uniquely designed to include audio Quality Control functionality. It will be the only room at the Packard Campus outfitted with equipment and systems that perform manual and automated quality assurance monitoring on all audio files of any kind from any source (audio, video or film) preserved at the campus.

LAW.GOV

Question. One of the priority activities for 2013 in the LOC budget request is the launch of LAW.gov. What is the cost of that initiative?

Response: Law.Gov is a URL that the Library of Congress registered in 2010. It will facilitate access to current, authoritative, and authenticated law and law-related information on a specific jurisdiction or enable a comparative analysis across jurisdictions, time, disciplines, and formats. Law.Gov will align with the overall Library initiative to implement the new Librry Web strategy, establish digital content priorities for the Law Library, and showcase the Law Library's unsurpassed and unique collections.

In fiscal 2013, major attention will be dedicated to identifying those Law Library collections having content that require stronger metadata to enable successful, consistent search results. The contractual services to develop and implement global, multi-format, multi-lingual legal and legislative metadata standards will be at a cost of \$960,000. Additional contractual resources will be required in fiscal 2013 to develop a Concept of Operations (CONOPS) for enterprise-wide content integration. The CONOPS will

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address how existing digitized collections within the Library (as allowed by copyright) can be integrated with LC electronic products and databases. The contract cost to produce this CONOPS will be \$240,000.

Question. Is LOC on track to launch the site in FY 2013?

Response: The Law Library is on track to launch an initial beta site for Law.gov during fiscal 2013. The Law Library will have completed a thorough review and updating of the metadata for content available through the Law Library website as of fiscal 2012. Law.Gov will then be launched with most or all of the content from the Law Library's current public website.

Question. Can LOC classify all the law volumes in time for a website launch in 2013?

Response: Due to insufficiency in the annual budget base of the Law Library, the Library of Congress included a \$353,000 program increase request in its fiscal 2011 Congressional Budget Justification. This funding would have allowed continued annual classification of 60,000 to 65,000 items, thereby completing this effort by the end of fiscal 2020. The requirement to convert the material still classified under the obsolete "LAW" category remains unfunded. Consequently, the Law Library relies on the prospect of available end-of-year uncommitted funds which could be reallocated for this purpose. Budget cuts reduce the likelihood that resources will be available for reallocation, which adversely impacts the classification of all law volumes by fiscal 2020. Until classification is complete, legal material is more vulnerable in terms of its security and will not be fully accessible to scholars, practitioners, and the general public. The classification of law volumes is not a component of the LAW.gov initiative. Law.Gov will not provide access to legal material remaining in the obsolete classification scheme.

Question. What are the 2013 FTE levels and budget for the office of Opportunity, Inclusiveness and Compliance? Is there a permanent director of the office?

Response: The Office of Opportunity, Inclusiveness and Compliance is requesting base funding of \$1.663 million and 10 FTEs in fiscal 2013. The amount requested includes mandatory pay related costs and inflationary increases. At the present time there is not a permanent Director of the office; however, structured interviews for the position are currently being conducted.

Question. The budget shows a decrease of 31 FTE for the Congressional Research Service (CRS). Would those departures happen through attrition, Reductions in Force, and/or buyouts?

Response: Departures occurred through buyouts in fiscal 2012 and will continue by attrition through the rest of the fiscal year. This reduction to a level of 620 FTE reflects the spending plan for fiscal 2012 and the fiscal 2013 budget request also will support this level.

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Question. How much is included in the budget request for the Civil Rights History Project?

Response: Funding of \$252,993 for the Civil Rights History project is included in the fiscal 2013 funding request.

TUESDAY, FEBRUARY 7, 2012.

GOVERNMENT ACCOUNTABILITY OFFICE

WITNESS

GENE L. DODARO, COMPTROLLER GENERAL OF THE UNITED STATES

MR. CRENSHAW'S OPENING REMARKS

Mr. CRENSHAW. We are going to hear from the Government Accountability Office next.

I want to welcome Comptroller General Mr. Dodaro.

Your budget request this year is for \$526 million. That is \$15 million more than 2012. And I think everybody knows the GAO is considered our investigative arm. They are the folks that keep an eye on Congress. They are tasked with improving government performance, accountability, and transparency.

In fiscal year 2011, the GAO estimates that for every \$1 invested in the GAO, the Federal Government received a return on that investment of \$81. And as I said last year, I am tempted to appropriate \$1 billion to the GAO, or if we appropriate \$10 billion we get almost a trillion dollars in savings.

Mrs. EMERSON. That should be an easy way to balance the budget, Mr. Chairman.

Mr. CRENSHAW. As you all know, it is not quite that easy.

But they do a great job. We are trying to be better stewards of the taxpayers' dollars, and they are helping us do that. So I want to welcome them.

I would like to recognize Ranking Member Mr. Honda if he has any opening remarks.

Mr. HONDA. No, just welcome, and I will save my remarks for the questions I do have.

Mr. CRENSHAW. If you would just make some brief opening remarks, we will insert your formal statement into the record.

[Prepared statement of Gene Dodaro follows:]

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on Legislative
Branch, Committee on Appropriations,
House of Representatives

For Release on Delivery
Expected at 9:30 a.m. EST
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**FISCAL YEAR 2013
BUDGET REQUEST**

**U.S. Government
Accountability Office**

Statement of Gene L. Dodaro
Comptroller General of the United States



GAO-12-T

Mr. Chairman, Ranking Member Honda, and Members of the Subcommittee:

I appreciate the opportunity to be here today to discuss the U.S. Government Accountability Office's (GAO) budget request for fiscal year (FY) 2013. I want to thank the subcommittee for its continued support of GAO. We very much appreciate the confidence you have shown in our efforts to help support the Congress in carrying out its constitutional responsibilities and to help improve government performance and accountability for the benefit of the American people.

GAO is requesting an appropriation of \$526.2 million for FY 2013 to support a staffing level of 3,100. This funding level represents a modest increase of 2.9 percent over FY 2012, and is 5.4 percent below our FY 2010 level. The majority of the requested increase represents the first step in rebuilding our staff capacity to a level that will enable us to optimize the benefits we yield for the Congress and the nation.

We have carefully reviewed every aspect of our operations from a zero base to identify opportunities to reduce costs without sacrificing the quality of our work and preserving our ability to assist the Congress in addressing the most important priorities facing the nation. However, given that staff costs now represent about 81 percent of our budget and the deep reductions already taken in our infrastructure programs, reducing the size of our workforce could not be avoided. By the end of FY 2012, for the first time in over 75 years, GAO's staffing level will drop below 3,000 staff, resulting in a net reduction of 11 percent in our staff capacity, or 365 people, in only a 2-year period.

Given the current size and scope of the federal government and the demand for our services, this staffing reduction will result in missed opportunities for us to identify ways to save money and generate revenue at a time when the country needs us most. I am also very concerned about maintaining our highly skilled workforce by both replacing departing staff and adding more highly skilled talent to address succession planning challenges and skill gaps. The cost to restore our staff capacity would be more than offset by billions of dollars in savings and other efficiencies resulting from GAO's work.

Through productive discussions with our Managers, Union, Employee Advisory Council, Diversity Advisory Council, and our staff, GAO has significantly reduced spending throughout the agency in areas ranging from human resources to travel to information technology (IT) to

achieve a \$45 million or 8.1 percent funding reduction since FY 2010. But, now we seek your support to begin a multiyear effort to rebuild our workforce to ultimately achieve a target full-time equivalent (FTE) of 3,250. We believe this is the optimal level within the current environment to most effectively serve the Congress and produce a high return on the investment in GAO. It would be our goal to return to this FTE staffing level in future year funding requests.

GAO is unique in our audit and evaluation capacity to support the Congress by performing original research, providing technical assistance, and conducting analyses to help the Congress make informed decisions across all segments of the federal budget resulting in tangible results and enhanced oversight needed to address the seriousness of the government's fiscal condition. In order for us to be most effective, GAO needs to be of a size commensurate with the current and emerging challenges facing the federal government and the seriousness of its fiscal outlook. We are extremely limited in our ability to target additional reductions without adversely impacting our capacity to support the Congress in reducing costs and improving government during this critical period.

GAO Supports Congressional Decision-making, Saves Resources and Helps Improve Government

GAO's work directly contributes to improvements in a broad array of federal programs affecting Americans everywhere and remains one of the best investments across the federal government. With this committee's support, in FY 2011, GAO provided assistance to every standing congressional committee and about 70 percent of their subcommittees. GAO issues hundreds of products annually in response to congressional requests and mandates. Our work yielded significant results across the government, including financial benefits of \$45.7 billion—a return on investment of \$81 for every dollar invested in GAO. Our findings and recommendations produce measurable financial benefits for the federal government, enabled through the actions of Congress and Executive Branch agencies, ultimately making funds available to reduce government expenditures, reallocate funds to more productive areas, or increase revenues.

We documented over 1,300 benefits resulting from our work that helped to change laws, improve services to the public, and promote sound management throughout government. About 32 percent of these benefits were in the area of public safety and security, such as homeland security and justice programs and critical technologies.

Another 40 percent resulted from improvements in business processes and management, such as improved oversight of federal oil and gas resources and detection of fraud, waste, and abuse.¹

GAO senior officials testified 174 times before the Congress on an array of complex issues including military and veterans disability systems, U.S. Postal Service fiscal sustainability, defense/weapons systems, and Medicare and Medicaid fraud, waste, and abuse.² Fifty-seven of these hearings were related to high-risk areas and programs highlighted in GAO's biennial high-risk report.³ GAO's *High-risk Program* calls attention to opportunities for cost savings and improvements in federal agency and program management that offer the potential to save billions of dollars, dramatically improve service to the public, and strengthen confidence and trust in the performance and accountability of the U.S. government.

In FY 2011, our work included several products mandated under the Dodd-Frank Wall Street Reform Act on mortgages, securities markets, financial institutions, the Federal Reserve, and consumer protection. Our work also included many other products related to health-insurance reform. In addition, we issued our first annual report under a mandate identifying 81 areas of duplication, overlap, fragmentation, cost-saving opportunities, and revenue enhancements in government programs. One area we have emphasized as an opportunity to generate revenue is the so-called "Tax Gap"—the amount of true tax liability faced by taxpayers that is not paid on time—where the Internal Revenue Service (IRS) recently updated its estimate from \$290 billion (net after late payments) to \$385 billion.⁴ We further identified several potentially significant governmentwide cost-saving opportunities, such as promoting competition for more than \$500 billion in federal contracts and applying strategic-sourcing best practices throughout the federal procurement system.

¹ A list of selected issues on which GAO assisted the nation in fiscal year 2011 is included as Appendix I.

² A list of selected issues on which GAO staff testified before Congress during fiscal year 2011 is included as Appendix II.

³ Our High-Risk List is included in Appendix III.

⁴ IRS Releases New Tax Gap Estimates, January 6, 2012.

As the Congress and the administration debate ways to address the federal government's unsustainable long-term fiscal path, our mission becomes ever more critical to help identify billions of dollars in cost-saving opportunities to tighten federal budgets and identify revenue-enhancement opportunities. GAO seeks both to help position the government to better manage risks that could compromise the nation's security, health, and solvency, and to identify opportunities for managing government resources wisely for a more sustainable future. GAO will continue to provide high-quality, high-value, and independent support to the Congress in ways that generate material benefits to the nation.

GAO's strategic plan for serving the Congress and the nation, 2010-2015, highlights the broad scope of our efforts to help the institution of the Congress respond to domestic and international challenges, such as.⁶

- addressing current and emerging challenges to the well-being and financial security of the American people;
- responding to changing security threats and the challenges of global interdependence;
- helping transform the federal government to address national challenges; and
- maximizing the value of GAO by enabling quality, timely service to the Congress and being a leading practices federal agency.

Actions Taken to Constrain Costs

Since FY 2010, GAO has significantly reduced spending throughout the agency. Our FY 2012 funding level is \$45 million or 8.1 percent below FY 2010. We streamlined costs and are operating at a reduced level through staffing reductions, voluntary retirements, voluntary separation incentives, and extremely limited hiring to only replace critical vacancies; reducing staff retention programs, such as student loan repayments and incentive awards; and reducing or deferring operational costs and investments in IT, facilities, and other support services. Since FY 2010, we have reduced engagement support costs, such as travel and external specialized expertise by over 20

⁶ Our Strategic Plan Framework is included in Appendix IV.

percent, and reduced infrastructure support costs, such as IT and administrative support services by over 18 percent.

In addition, we are continuing to explore other opportunities to enhance workforce and budget flexibilities to help reduce our infrastructure costs, provide staff more flexibility and increase our effectiveness and efficiency, such as streamlining our engagement-management process; expanding our telework policies; reducing our physical footprint both in HQ and in our field offices; exploring office-sharing; expanding our video-conference capability; and attracting an additional tenant in HQ to increase revenue. While we may only see limited financial benefits in FY 2012, each of these initiatives provides the opportunity to generate significant long-term financial benefits to GAO.

We are also consulting continuously with congressional committees to assure that our work is focused on their highest priorities. Additionally, we continue to work with committees to amend or repeal statutory mandates for GAO studies that have outlived their usefulness or do not represent the best use of GAO's resources given current congressional priorities.

FY 2013 Budget Request Would Help Restore Essential Capacity

Our budget request seeks to partially restore funding to allow GAO to 1) begin a multiyear effort to rebuild our workforce by hiring to replace departing staff to enable us to optimize the benefits we yield for the Congress and the nation, 2) bolster staff recruitment and retention programs, such as student loan repayments and incentive awards, and 3) replace end-of-life technology to ensure our technology is current and remains on par with other federal agencies.

For the first time in over 75 years, GAO's staffing level will drop below 3,000 staff in FY 2012, resulting in a net reduction of 11 percent in our staff capacity in only a 2-year period. Further, we project losing an additional 190 people in FY 2013 based on historical trends. We also have a significant number of retirement eligible senior executive staff (about 40%), supervisory analysts (25%), and analysts (12%). We depend on a talented and diverse, high-performing, knowledge-based workforce to carry out our mission to support the Congress. This reduction in staff capacity is limiting our ability to support the Congress during this critical period when the unique insights that GAO provides are an essential element of Congressional analysis and decision-making. It is imperative that we begin to replenish our workforce to both replace departing staff and add more highly skilled talent to

address succession planning challenges and skill gaps. We have been and will continue to reach out to our congressional clients to ensure they help focus our work on the highest priority areas to obtain the maximum benefit in this resource constrained environment.

Our FY 2013 budget request seeks to partially restore essential funding for staff recognition and benefits programs and critical investments eliminated or deferred due to budget constraints. Reductions in staff recognition and benefits programs jeopardize our ability to attract and retain staff when other organizations with whom we compete for human resources may offer these benefits. These tools are also essential to recognize and motivate our high-performing workforce. Moreover, all but the most critical investments in areas such as facilities and information technology have been eliminated. Continued deferral of needed investments in our systems and building will ultimately diminish our productivity and effectiveness, likely lead to more costly repairs, and affect our ability to exchange data with other federal entities.

We are also requesting authority to use \$24.3 million in offsetting collections from rental income and reimbursements from program and financial audits. In addition, we estimate about \$4.7 million will be available from reimbursements of programs and financial audits to help offset our costs.

If GAO's funding is reduced below the requested level, additional reductions in our staffing level would be inevitable which would adversely affect our ability to 1) produce results that can help deal with the federal government's fiscal challenges and 2) provide timely, insightful analysis on congressional priorities and challenges facing the nation. As a knowledge-based organization, about 81 percent of GAO's budget is spent on staff compensation and benefits, a slight increase from the previous year as a result of the deep reductions made in agency operations and infrastructure. We are extremely limited in our ability to target additional reductions in infrastructure-support costs beyond what has already been taken in order to meet the basic operations of the agency.

Positive Results from External Organizations

In regard to our internal operations, in FY 2011 we received a clean opinion on our system of quality control for both our financial and performance audits from an external peer review conducted by a team of auditors from our counterparts at national audit institutions, and received an unqualified opinion on our financial statements from independent auditors. The Association of Government Accountants awarded us its Certificate of Excellence in Accountability Reporting for our FY 2010 Performance and Accountability Report. We also received a "Best-in-Class" award for a concise, well-written, and highly readable Summary of GAO's Performance and Financial Information for FY 2010.

GAO was also once again recognized as one of the Best Places to Work. The annual survey conducted by the Partnership for Public Service identified GAO as number three in its rankings for all large organizations across the entire federal government. *Washingtonian* magazine selected GAO as one of the Best Places to Work in the private and public sectors in Washington, D.C., in its annual rankings.

Concluding Remarks

FY 2011 was a very active and challenging time for GAO. We succeeded at performing our mission, responding to mandates, and accomplishing many of our goals while managing budget constraints. We could not have achieved this level of performance without the outstanding efforts of our professional, diverse, and multidisciplinary staff. We also maintained our productive working relationship with the employees' union, GAO Employees Organization, International Federation of Professional and Technical Engineers, Local 1921, and began implementing our first master collective bargaining agreement. In addition, we are also working closely with the Employee Advisory Council and the Diversity Advisory Council on a range of issues.

FYs 2012 and 2013 bring more challenges with responsibilities to further assess and report on government programs and financial regulatory reform efforts, among many other pressing issues. Our budget request has been carefully developed to represent the level of resources we need to continue effectively serving the important needs of the Congress by providing quality products in a timely fashion and to identify high opportunity areas for both eliminating waste as well as enhancing revenue across the federal government.

I believe that you will find our budget request fiscally responsible and essential to ensure that we can maintain our capacity to assist the Congress and produce results for the American people. We remain

committed to providing accurate, objective, nonpartisan, and constructive information to the Congress to help it conduct effective oversight and fulfill its constitutional responsibilities.

Mr. Chairman, Ranking Member Honda, Members of the Subcommittee, this concludes my prepared statement. I appreciate, as always, your careful consideration of our submission and look forward to discussing our proposal with you.

Appendix I: How GAO Assisted the Nation, Fiscal Year 2011

Goal 1: Address Current and Emerging Challenges to the Well-Being and Financial Security of the American People

- Identified savings of \$3.7 billion by reducing unneeded payments to Medicare Advantage plans
- Identified the need for the Department of Health and Human Services to finalize guidance on how antivirals would be used during a pandemic
- Identified opportunities for cost savings and reduced risk to the government in a series of reports on undefinitized contracts, use of blanket purchase agreements where discounts were not sought, and cost reimbursement contracts
- Improved consistency and compatibility of health care-associated infection data
- Led the Social Security Administration to improve oversight of its Ticket-to-Work program
- Identified opportunities to enhance investigation of online child pornography
- Recommended ways to strengthen the Federal Reserve's management of emergency assistance to stabilize financial markets
- Developed a series of assessments of emerging technologies with important implications for the nation
- Found regulatory weaknesses in EPA's water-based lead testing and treatment program
- Informed improvements in air passenger rights to compensation for mishandled baggage

Goal 2: Respond to Changing Security Threats and the Challenges of Global Interdependence

- Encouraged enhanced desktop computer security to protect sensitive information, which 22 federal agencies implemented
- Identified progress and remaining work to implement homeland security missions at DHS ten years after 9/11
- Led DHS to scale back the flawed advanced radiation detector program—avoiding costs of \$1.2 billion
- Identified challenges and recommended improvements in DOD's expanding cybersecurity mission
- Surfaced potential costs and risks of contract transition during drawdown from Iraq, resulting in benefits of \$77.5 million
- Led DOD to restructure the Joint Strike Fighter program—DOD's most costly and ambitious acquisition
- Improved monitoring and evaluation of State, Labor, and USAID projects to combat human trafficking

Goal 3: Help Transform the Federal Government to Address National Challenges

- Provided timely information on the debt limit and budget controls to help address the long-term fiscal challenge
- Helped eliminate the Advanced Earned Income Tax Credit, avoiding \$569 million in costs
- Suggested that the Congress extend the statute of limitations for examinations involving offshore financial activity
- Recommended that OMB establish realistic milestones for full implementation of the infrastructure needed to best use the electronic authentication capabilities of personal identify verification cards
- Identified 227,700 tax delinquents receiving federal benefits to explore ways to increase collection of unpaid taxes
- Found ways to incorporate required data into Centers for Medicare & Medicaid systems to better detect improper payments
- Issued updated government auditing standards to reflect recent developments in the accountability profession
- Recommended improvements to planning and implementation of federal data center consolidation at 24 federal agencies

Source: GAO.

Appendix II: Selected Testimony Topics, Fiscal Year 2011

Goal 1: Address Current and Emerging Challenges to the Well-Being and Financial Security of the American People

- Safety of Medical Devices
- DOD and VA Care Coordination Program
- VA Prevention of Sexual Assaults
- State Oversight of Private Health Insurance Rates
- Potential Overlap and Duplication in Government Programs
- Incapacitated Adults
- Federal Workers' Compensation
- Military and Veterans Disability System
- Oversight of DOD Tuition Assistance Program
- Securities Lending in 401(k) Plans
- Pension Benefit Guaranty Corporation Management
- Financial Literacy
- Mortgage Foreclosures Regulatory Oversight
- Oversight of Residential Appraisals
- TARP
- Interior's Major Management Challenges
- Federal Oil and Gas Restructuring
- Improvements Needed for Safe Drinking Water
- Food and Agriculture Emergency Preparedness
- Airport and Airway Trust Funds
- Traffic and Vehicle Safety
- Use of Recovery Act Transportation Funds
- Unneeded Owned and Leased Federal Facilities
- VA Real Property Realignment
- Needed U.S. Postal Service Legislation

Goal 2: Respond to Changing Security Threats and the Challenges of Global Interdependence

- DHS 10 Years After 9/11
- Electronic Employment Eligibility Verification
- Aviation Security Behavior Detection Program
- Maritime Security U.S. Counterpiracy Action Plan
- Cross-Border Currency Smuggling
- Assessing National Preparedness Capabilities
- Visa Overstay Enforcement
- Combatting Nuclear Smuggling
- Flood Insurance Reform
- Efforts to Address Terrorist Safe Havens
- Antidumping and Countervailing Duties
- Diplomatic Security Training Challenges
- DOD Space Acquisitions
- Missile Defense Transparency and Accountability
- DOD Cost Overruns
- Joint Strike Fighter Program Restructuring
- Coast Guard Deepwater Program
- Army's Ground Force Modernization
- Littoral Combat Ship Acquisition Strategies
- Contract Oversight of non-U.S. Vendors in Afghanistan
- Addressing Urgent Warfighter Needs
- Personnel Security Clearance Process

Goal 3: Help Transform the Federal Government to Address National Challenges

- Oversight and Accountability of Federal Grants
- Reducing Improper Payments
- Fiscal Year 2010 U.S. Government Financial Statements
- DOD Financial Management Challenges
- Medicare and Medicaid Fraud, Waste, and Abuse
- Fraud Prevention in Service-Disabled Veteran-Owned Small Business Program
- Fraud Prevention in SBA's 8(a) Program
- Tax Delinquent Recovery Act Contractors
- Protecting Federal Information Systems
- Information Technology Investment Oversight
- VA Information Technology
- Federal Information Technology Spending
- Unfunded Mandates Reform Act Requirements
- Budget Enforcement Mechanisms
- 2010 Census Lessons Learned
- Value Added Taxes
- Tax System Complexity and Taxpayer Compliance
- GPRM Modernization Act Implementation

Source: GAO.

Appendix III: GAO's 2011 High-Risk List

Strengthening the Foundation for Efficiency and Effectiveness

- Management of Federal Oil and Gas Resources (New)
- Modernizing the Outdated U.S. Financial Regulatory System
- Restructuring the U.S. Postal Service to Achieve Sustainable Financial Viability
- Funding the Nation's Surface Transportation System
- Strategic Human Capital Management
- Managing Federal Real Property

Transforming DOD Program Management

- DOD Approach to Business Transformation
- DOD Business Systems Modernization
- DOD Support Infrastructure Management
- DOD Financial Management
- DOD Supply Chain Management
- DOD Weapon Systems Acquisition

Ensuring Public Safety and Security

- Implementing and Transforming the Department of Homeland Security
- Establishing Effective Mechanisms for Sharing and Managing Terrorism-Related Information to Protect the Homeland
- Protecting the Federal Government's Information Systems and the Nation's Cyber Critical Infrastructures
- Ensuring the Effective Protection of Technologies Critical to U.S. National Security Interests
- Revamping Federal Oversight of Food Safety
- Protecting Public Health through Enhanced Oversight of Medical Products
- Transforming EPA's Process for Assessing and Controlling Toxic Chemicals

Managing Federal Contracting More Effectively

- DOD Contract Management
- DOE's Contract Management for the National Nuclear Security Administration and Office of Environmental Management
- NASA Acquisition Management
- Management of Interagency Contracting

Assessing the Efficiency and Effectiveness of Tax Law Administration

- Enforcement of Tax Laws
- IRS Business Systems Modernization

Modernizing and Safeguarding Insurance and Benefit Programs

- Improving and Modernizing Federal Disability Programs
- Pension Benefit Guaranty Corporation Insurance Programs
- Medicare Program
- Medicaid Program
- National Flood Insurance Program

Appendix IV: GAO's Strategic Plan Framework



Serving the Congress and the Nation GAO's Strategic Plan Framework

MISSION

GAO exists to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people.

TRENDS

National Security Threats Fiscal Sustainability Challenges and Growth Economic Recovery Global Interdependence Science and Technology Networks and Virtualization Shifting Roles of Government Demographic and Societal Change

Goals	Objectives
<p>Provide Timely, Quality Service to the Congress and the Federal Government to...</p> <ul style="list-style-type: none"> ... Address Current and Emerging Challenges to the Well-being and Financial Security of the American People related to... ... Respond to Changing Security Threats and the Challenges of Global Interdependence involving... 	<ul style="list-style-type: none"> Health care needs Stable communities Lifelong learning Stable financial system and consumer protection Benefits and protections for workers, families, and children Stewardship of natural resources and the environment Financial security Infrastructure Effective system of justice
<p>Help Transform the Federal Government to Address National Challenges by assessing...</p>	<ul style="list-style-type: none"> Homeland security U.S. foreign policy interests Military capabilities and readiness Global market forces Government's fiscal position and options for closing gap Major management challenges and program risks Fraud, waste, and abuse
<p>Maximize the Value of GAO by Enabling Quality, Timely Service to the Congress and Being a Leading Practices Federal Agency in the areas of...</p>	<ul style="list-style-type: none"> Efficiency, effectiveness, and quality Professional networks and collaboration Diverse and inclusive work environment Institutional stewardship and resource management

CORE VALUES

Accountability	Integrity	Reliability
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Source: GAO.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

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MR. DODARO'S OPENING REMARKS

Mr. DODARO. Thank you very much, Mr. Chairman. Good morning to you, Ranking Member Honda, Congresswoman Emerson, Congressman Price, Congressman Bishop. It is nice to be back here again.

We, as the investigative arm of the Congress and also as the auditor of the Federal Government's financial statements, know full well the seriousness of the Federal Government's financial situation. We believe we need to do our part to reduce our costs, and we have worked hard over the last 2 years to do that.

We are down over 8 percent from where we were in 2010. That is a reduction of over \$45 million. We have taken a zero-based approach and gone through our budget line item by line item and have made a lot of reductions.

But we have also had to control our hiring to live within that limit. As a result, we have not been able to replace people as they have been leaving the agency. This is a concern to me as it affects the future of the organization.

Our staffing level right now is 11 percent below our 2010 level; and, in fact, it is the lowest level of GAO staffing since 1935. As we know, our government today is different than it was in 1935, and it is more complex in size and scope. I think at our current staffing level we are missing opportunities to help identify additional cost savings and revenue enhancement opportunities for the Congress to help deal with the Federal Government's serious financial situation.

I recognize the limitations you are operating under. We have requested a modest increase of 2.9 percent to partially restore some of our staff. The requested funding would go to people, not other purposes, to make sure that we can maximize the investment in the GAO.

And while you mentioned the \$81 for every \$1 returned to GAO, that is below our 4-year average, which was \$91 for every \$1. I think we can help the Congress. I think we are a good investment for the Congress, and our request is prudent.

I think you will find our request responsible. I am happy to be here today to discuss the request with all of you.

GAO'S ZERO-BASED BUDGET APPROACH

Mr. CRENSHAW. Thank you very much, and I am sure the members have some questions.

I want to ask you the same question that I am going to ask all agencies, and that is, when you recognize the fact, as you point out, that you have got less money than you had the year before, and actually less money than the year before that, I would like you to tell us how you handle that. What goes through your planning process when you recognize you had less money?

But also, in conjunction with this whole concept of zero-based budgeting, where I would like to hear your attitude toward that. Has that helped you identify any additional efficiencies? Is that a good exercise to go through?

On one hand, you were just told you have less money than you had last year, like we said, because it was a convoluted year, so

you have to deal with that. Then you look forward and you can go through this zero base. And when you combine those two, tell us a little bit about how that impacts your ability to be more efficient.

For instance, last year I know we talked about when you get asked by a lot of people for a lot of different things, and I would imagine that some reports are more worthwhile than others, and there is a certain sense of priority you have to deal with. So how does all that fit in with the fact that you got less money and then you also know that as you look forward you are going to try to build a budget from ground zero?

Mr. DODARO. That is an excellent question. I am happy to talk about that.

First, 81 percent of our budget are people costs or staff costs. We are a very people-intensive organization. The first thing we did back in 2010 seeing this coming, was to scale back on our hiring. We hired 100 less people than we planned to that year. Over the last couple of years we have only been hiring a few essential people to fill critical positions.

We offered early outs and buyouts and about 40 people accepted the offer. We had to get our labor costs down to live with the allocations.

Then we took the zero-based approach. David Fisher, who is with me, is our Chief Administrative Officer and Chief Financial Officer. He led that effort and did a marvelous job.

We went through every line item, and we identified a wide range of savings. We stopped some IT systems that no longer seemed to be prudent. We looked at the contractor-employee ratio for our support services and let go over 80 contract staff.

We closed our libraries in our headquarters building and now are reallocating that space. We are seeking another tenant to occupy the space to increase our rental income.

We also tapped the experience of our people. Our people are experts at finding savings everywhere else. So we posted a request on our Web site for them to identify cost savings opportunities. We got over 500 suggestions from our employees, one of which was to move our Personnel Appeals Board, which is an independent organization where employees can go for personnel matters, from leased space outside the GAO building to inside the GAO building. That will save us \$250,000 in rental costs.

And there were a lot of little things. We closed one entrance to the garage that saved us a half-million dollars a year because we no longer needed guards there. I could go on and on. But we scrubbed everything, turned our analytics on ourselves, and it had great effect. David did a terrific job.

Mr. CRENSHAW. So it has been positive.

Mr. DODARO. Definitely. It has been very good, and we have identified some things we are still working on.

For example, we are going to try to reduce our rental costs further in our field locations by up to 40 percent by experimenting with telework pilots to let people use more flexible work arrangements.

As it relates to request priorities, I am making an effort to meet every chair and ranking member of all the standing committees of

the Congress. I have had over 100 meetings so far. I am not quite through. It is tough getting to meet with everybody.

At those meetings we talk about what kind of feedback they have for me on GAO's work, and whether we are meeting their needs. And I make an opportunity—take that opportunity, rather, to ask them to make sure we know what their priorities are for work going forward. I am finding this to be very encouraging, that the committee leaders understand our situation and are willing to work with us. And I think with our requests we can continue to meet the high priority needs of the Congress.

Mr. CRENSHAW. Great. Thank you very much.

Mr. Honda.

MANAGING GAO'S WORKLOAD

Mr. HONDA. Thank you. Thank you, Mr. Chairman. And welcome.

So you answered a couple of my questions like, what you are doing with the committee chairs? And what I hear you saying is you are asking them for their priorities. I translate that to mean according to your priorities being able to adjust your workforce to meet your needs. But in the milieu of the other committees there is going to be some give and take. Are they hearing that?

Mr. DODARO. Yes. We also set up a process to have each committee consult with us earlier as they consider potential statutory requirements for GAO. And we are also, Congressman Honda, trying to work with them to merge requests from different committees to do a body of work to meet multiple committee needs. And that is working very well.

Mr. HONDA. Is that your pilot program or—

Mr. DODARO. No. We did not need to pilot that. I was comfortable with proceeding. The pilots are for telework in our field locations.

EFFECT OF A SEQUESTRATION

Mr. HONDA. As a result of the cuts that we have imposed and the sequestration that we are facing, what would be that impact on our committees and your work? And given that we get \$81 for every \$1 we invest, the question of how can you find money and save it? I guess the other question, flip side of the question would be, how much would you need more of in order to generate more revenue down the stream and looking at the same kind of thing but maybe investing a little bit more so that we can get more out at the end? Would you talk about that?

Mr. DODARO. First, sequestration is basically a cut to whatever the appropriation would be for 2013, not from a prior year base.

Mr. HONDA. Right.

Mr. DODARO. If we don't receive what we are requesting or if there is a further reduction, we will have to further reduce our staff. We will continue to look for administrative cost savings, but since staff costs are 81 percent of our total cost, we won't be able to do anything other than reduce our staff either by continued attrition and not replacing people, or by potential reduction-in-force or furlough.

MAXIMIZING GAO'S RETURN ON INVESTMENT

Now, in terms of maximizing our return on the investment, we believe our request does that. It adds some additional people to the GAO. We would still be well below our 2010 level, but we think we can maximize the return on the investment to the Congress. And, you can't absorb a lot of new people in a year, so we think this is a reasonable approach to maximize our investment to Congress.

Mr. HONDA. Just very quickly, though, dynamically, sometimes we may have to put more up front, you know, to get more downstream.

Mr. DODARO. Right.

Mr. HONDA. Rather than a cut in the budget, making an investment, knowing that we will get it back in tenfolds.

Mr. DODARO. Right.

Mr. HONDA. Will you talk about that, or—

Mr. DODARO. If Congress gets an investment back at GAO—

Mr. HONDA. I know, but you are thinking of staying below the budget line, but I am saying in order to increase, it should be beyond that.

Mr. DODARO. Our request is an increase of 2.9 percent that would allow us to have our staffing level at about 3,100 people. If we don't get the requested increase, our staffing level will be below 3,000, around 29-something. Our requested increase will produce dividends right away, and provide the resources to identify billions of dollars in other savings opportunities or revenue enhancements for the government.

Now, importantly, though, Congressman, this is also a long-term investment for the Congress because we are facing tremendous succession planning challenges. Forty percent of our senior executives are eligible to retire. They are beginning to retire at a higher rate than our senior managers. We need to replace the workforce.

Coming off Super Bowl weekend, my football analogy would be like a college football coach, where you don't bring in any freshman or sophomore classes, and your seniors are about ready to leave, and you are looking at the juniors and saying, well, you guys better work hard. I think it is important for the long-term health of the Congress to have a viable and vital GAO, and we can't do that if we are stagnant over a number of years in hiring.

Mr. HONDA. Thank you, Mr. Chairman.

Mr. CRENSHAW. Thank you.

Mrs. EMERSON.

Mrs. EMERSON. Thank you. Thanks, Mr. Chairman.

GAO RECRUITING TIED TO BUDGET

So I understand the issues that you have, but then you also said in your brief comments that you haven't been able to replace some of those folks who might have left early, who took a buyout or what have you. Is that not due to money, but rather due to the fact that it is hard to recruit people?

Mr. DODARO. No, we have no problem recruiting people.

Mrs. EMERSON. No problem recruiting people even despite the fact that you halted in student loan repayments and everything.

Mr. DODARO. Well, we haven't started recruiting again since we halted the student loan re-payment program this first year, and our budget request includes resurfacing that program again next year. It has been an excellent retention tool, and it has helped us in recruiting. But by and large, we have no problem getting highly qualified candidates at all levels in the organization.

Mrs. EMERSON. That is good.

Mr. DODARO. So it is not a problem for us.

Mrs. EMERSON. Okay.

Mr. DODARO. It is really limited to the amount of money involved.

Mrs. EMERSON. Okay. I wasn't sure which way I heard it. Everything always comes back to money, doesn't it, unfortunately.

Mr. DODARO. Yes.

Mrs. EMERSON. But you all do do an excellent job, and I don't know what we would do without you. And obviously it is important for us to begin living better within our means.

Mr. DODARO. I know.

Mrs. EMERSON. So doing more with less is always a hard thing to do.

IMPLEMENTATION OF GAO RECOMMENDATIONS

Let me ask you a policy type of question, if I might, Mr. Chairman. Obviously, while some agencies and departments in the government are shrinking, you know, moderately or in some cases a tiny bit, we have a proliferation of new agencies coming about. And I know that you all annually produce that high-risk series, if you will, highlighting broad areas where reform is needed.

I wonder are there areas of government where you—who are particularly unresponsive to you all and, you know, a high-risk area for lack of transparency? And if that is the case, who?

Mr. DODARO. We routinely track implementation of our recommendations.

Mrs. EMERSON. Yes.

Mr. DODARO. And on the whole, over 80 percent of our recommendations are implemented within a 4-year period of time.

Mrs. EMERSON. Is that what the average is, 4 years?

Mr. DODARO. That is the average across the agencies. I would have to go back and check the specifics by department, because we usually don't do that. I also make an effort like I am meeting with committee leaders to meet with all of the top officials of the agencies.

Mrs. EMERSON. Right.

Mr. DODARO. And on the high-risk areas now we have meetings with the top people at OMB and in agencies. I personally participate in every one of those meetings—to make sure that we do everything we can and suggest ways that they can get off that list and improve their operations.

DETERMINING HIGH RISK AREAS

Mrs. EMERSON. So what would be some of the categories that would put one in a high risk.

Mr. DODARO. There are two broad categories. One is fraud, waste, and abuse.

Mrs. EMERSON. Right.

Mr. DODARO. That category includes the Medicare and Medicaid programs.

Mrs. EMERSON. Right.

Mr. DODARO. Both programs combined have over \$50 billion in improper payments a year, a lot of exploitation of the programs.

There is another category of areas that are in need of broad-based transformation, including the Department of Homeland Security, the Postal Service's financial condition, a lot of Defense business operations, and contract management at NASA and the Energy Department.

Mrs. EMERSON. Yes.

Mr. DODARO. We have 30 areas in total on the list.

REPORTING GOVERNMENT OVERLAP AND DUPLICATION

We also now have a statutory requirement to produce a report on overlap and duplication across government every year. Our current report addresses some of your questions about new programs and whether they are overlapping or creating fragmentation by departments.

Mrs. EMERSON. Right.

Mr. DODARO. We issued our first report last year and our second annual report will be out at the end of this month. We highlighted 81 areas across the Federal Government—half of those were subject to overlap duplication, or fragmentation. The other half are areas with potential cost savings or revenue enhancements. The IRS has just come out with a recent estimate of the tax gap, which was \$385 billion in 2006. Compliance stayed pretty flat, but the incomes driving tax revenue are rising as well.

Mrs. EMERSON. Yeah. I mean, it just seems in some cases we pass laws, and they are well meaning and well intentioned on the one hand. On the other hand the implementation of it is something else. But in one particular instance, and I don't want to be specific here, a law that recently passed required the creation of several little, bitty agencies within another agency, or bureaus. And all of those functions already currently existed at that agency. Are those the types of things that you are looking at, because why would you create a new agency? If you already have that capability, you just transform what you have—

Mr. DODARO. Yes.

Mrs. EMERSON [continuing]. As opposed to have duplicates.

Mr. DODARO. Yes, we are looking at that both within agencies and across agencies.

Mrs. EMERSON. Right.

Mr. DODARO. And typically what we find is there are a lot of problems across agencies. Last year we found 82 programs that either focused specifically on improving teacher quality, or it was an allowable expense, but in ten different Federal agencies. Nobody had a list of them or was managing them across departments and agencies.

We found the same thing in employment training programs; programs to improve science, technology, engineering, and math; and housing programs. We are raising these issues for Congress' consideration and are having some discussions on it.

Mrs. EMERSON. And the sad thing is, and I know my colleagues will forgive me since I am not talking about us specifically, but you do start getting into ego, territorial issues, and I think half the time those are the reasons that we are not capable of helping agencies along and/or committees of our own in being able to become more efficient.

Mr. DODARO. I consider that a comment, not a question.

Mrs. EMERSON. That was a very diplomatic way of making a comment.

Thanks, Mr. Chairman.

Mr. DODARO. Thank you, Congresswoman.

Mr. CRENSHAW. Mr. Price.

SUSPENSION OF STUDENT LOAN REPAYMENTS

Mr. PRICE. Welcome. I am happy to have you and your management team here. You have put a rather positive interpretation on some of the consolidation and reforms that you have undertaken in terms of your budgeting, your personnel, and so forth. I do think your agency is a good example of agencies in government where it is entirely possible, may be even likely, that sometimes we are penny wise and pound foolish. Staff consolidation and staff attrition that occurred results in studies not done, analyses not available, information not there to be acted upon by the Congress and by other users of the studies that you produce.

So I want to ask you in a more pointed way to talk about these head counts and, in particular, what the effect of suspending your student loan repayment program has been. On the face of it, I understand why, given the unpalatable choices you faced, this was something you did as opposed to reductions in force directly.

Mr. DODARO. Yes.

Mr. PRICE. On the other hand, that is an extremely important tool for retaining quality people. We know that, and I think it is well known across government. You are going to need not just manpower and womanpower, but you are going to need high-quality people. Recruiting people right out of college or wherever is one thing, but to retaining them and bring them along is quite another. I would think that this is a very defensible item in your budget, although you are proposing only a partial reinstatement, as I read it.

Mr. DODARO. That is correct.

Mr. PRICE. Your fiscal 2010 student loan repayment was, \$3.1 million. That was cut virtually in half in fiscal 2011. It has now been zero this year, and you are proposing to bring it back at a \$2.2 million level.

I would like to know what the rationale is for that; what the impact has been, is, and will be of this kind of under duress; and what you have done here with student loan repayment.

And then more generally, if you could just reflect on these head counts. You had a change of 216 lost positions in fiscal 2011, and then you lost an additional 149 positions in fiscal 2012, or you anticipate that. You are requesting enough to bring the head count back to 3,100 with a gain of 115 from this year's level for 2013. There again, that is a partial reinstatement. I don't know what

kind of functions are lost by virtue of all of this uncertainty and all of this instability in your ability to hire and retain.

So you can answer here this morning, if you will, these questions and then I would imagine you might want to furnish more detailed information for the record.

Mr. DODARO. Sure. I would be happy to. I will ask David Fisher to provide a little bit of additional information. On the student loan repayment, if someone received a repayment in a prior year, they made a 3-year commitment to stay with the agency, or they had to repay the amount of money. It is not a year-by-year commitment on their part. This is the first year that we have not funded the program. We are one of the few agencies in the Federal Government that actually budgets for the program and has used it.

Now, going forward with the partial reinstatement, in the last couple of years, as you point out, we haven't brought in any additional people at the entry level and some of the people are beyond their 3-year commitment, so we are trying to size it to the potential population of people that we would provide the student loan repayments to. Now, I will ask David to explain that.

But on the consequences of low GAO head count, there are things that we are not able to get to as quickly as the Congress would like us to and there are a lot of things that go unevaluated.

One of the things that, as I mentioned to Congresswoman Emerson, we are looking at is overlap and duplication. What we are finding is not only a lot of programs with overlap and duplication, but a lot of them haven't been evaluated by the agencies or anybody. That is one of the things I think we could do that would—with these additional people—be a great service to the Congress. My priority will be to try to evaluate programs that haven't been evaluated. Also, to drive down what is now estimated to be over \$100 billion of improper payments that go out, and to help make contributions in reducing the tax gap down from the \$385 billion level.

Mr. PRICE. That is what I mean by penny wise and pound foolish. We can't act on these things that we don't know about.

Mr. DODARO. Yes, that is why I made the request that I did by asking for an increase in the staffing, because I think it will yield benefits to the Congress and billions of dollars in savings elsewhere in the Federal government or revenue enhancements.

David, you might want to talk about student loans.

GAO'S BUDGET DECISION STRATEGY

Mr. FISHER. Sure. As we looked at, and I think as the Chairman talked about, with the zero-based approach we looked at how we could reduce costs to get to our fiscal year 2012 reduction. Gene established two main priorities as our guiding principles to go through that effort. The first was to minimize the impact on our ability to fulfill the mission of the Congress, and second was to minimize the impact on our people. We used those two guiding principles as we went through the zero-based budgeting exercise to try to figure out how can we hit that number while minimizing the impact on those two main priorities.

For example, avoiding layoffs and furloughs, or closing an office and those kinds of things, which would have a dramatic impact not

only on our people, but also our ability to serve Congress and some of the chaos that would ensue as a result of that. We were looking for ways not to do those things.

When we got to a program like student loan repayments, which is a very successful retention tool and is very highly prized in the organization, we felt that to not do some of the other things which could impact our guiding principles, as we were getting down to brass tacks on the final numbers and where do we cut, this was something that was put on the table. We actually talked about it with our union, and the union was with us. Of course, the executive committee and Gene make those decisions, but we wanted the union's input. We also wanted the staff's input through the Website process. There was a sense that a 1-year termination of that program in lieu of some of the other things that we would have to do to recoup a couple of million dollars was a worthwhile thing. We are clearly looking to put money back into that program next year.

The same on the head count. We are looking to partially restore, as you indicated. As we put in our budget request, we would look to increase that in subsequent years and try to get our staffing level back to where we were a couple of years ago. But, there is also a practical matter of how many people you can hire and assimilate in a single year. We actually felt both from a monetary standpoint of what is a reasonable request, as well as how many people could we actually absorb and bring in through the recruiting process, including the initial training. The reduction has been so significant over the 2-year period that we didn't think that we could actually physically do that all in 1 year.

So we saw this staffing growth, as I think we highlighted in our request as a 2-year effort, to partially restore some this year and then ideally restore the balance in the subsequent year.

Mr. PRICE. Thank you.

Mr. CRENSHAW. Mr. Bishop.

Mr. BISHOP. Thank you very much.

Let me just commend you for your diligence and effectiveness in identifying ways as well as involving the unions and all of the employees in helping the Federal government to save money. You have done a tremendous job, having been asked to do more with less, clearly.

But I kind of want to explore, as Mr. Price was the impact of the cuts in personnel, particularly in your ability to provide the services that have come to be expected by Members of Congress. You talked about having had meetings with the ranking members, and the chairs of the various committees and subcommittees. What about of the rank-and-file Members who have historically made requests for information and brought matters to your attention for GAO review. What is the impact on those requests? You said you had established priorities, and I assume that the leadership of the various committees really constitute the first priority.

As you have indicated, you also are losing strength in terms of your being able to recruit and to retain personnel because of senior staff moving out. How has this impacted your ability or your recruitment efforts, particularly your affirmative action and equal opportunity efforts in terms of recruiting at Historically Black Col-

leges and universities, promotion, and retention? How is all of this affecting your EEO stats?

Furthermore, you have a very, very highly acclaimed training program for your new recruits that lasts a couple of years. Within the Federal Government, it is supposed to be one of the best that exists. How have these cuts impacted that training program? Besides not having as many people to train—

Mr. DODARO. Right.

Mr. BISHOP. Have you had to shorten it, or is it of the same quality? Do these budget cuts that we are doing really impact it?

I was very heartened to hear that on the Senate side, some of the more conservative Senators had really expressed very, very strong concerns that you, with the particular function that you have as an agency, were being required to cut, when you were giving us cost savings.

WORKING WITH CONGRESS TO SET GAO'S PRIORITIES

Mr. DODARO. Very good. First, with regard to priorities, we have three priorities that are in our congressional protocols that we negotiated with the Congress. First are requests for GAO work that are in statutory mandates and in the law, or in committee or conference reports. That is priority one. Priority two, a request from chair and ranking members. We treat both the same, with our non-partisan status. And third are requests from individual Members of Congress.

We haven't had enough resources to get to the third priority for a number of years, Congressman. We used to be an organization of over 5,000 people. If an individual Member of Congress wants us to do some work, they have to get a committee to sponsor that work. Or if it is a legal question, or a real serious kind of matter, then we can consider trying to figure out if we can do that. But by and large, most member requests have to get a committee to sponsor the request either through a letter of request or in a committee or conference report.

So right now, we are backed up and no longer meeting the requests from the committee leadership. We routinely receive over 900 requests a year for our help, and we are trying to work with priorities setting to manage it. We used to be able to get to new requests more promptly than we are able to do it now, although we try to do it as fast as possible.

But the one thing I will not sacrifice is the quality of our work, and it is really important to our integrity. It is important to our ability to serve the Congress properly, and so we are not going to sacrifice that.

MINORITY HIRING

Now, with respect to the EEO profile, over 30 percent of our organization are minorities; 57 percent are women. So we have a very good profile in the agency. There are a couple of categories, Hispanics in particular, and people that are, disabled, that we are short on. So we are working on those within our limit.

Now, we haven't hired a lot of people at all, and we have had people leave. I think the people that are leaving now, I will go back and double-check on this, are pretty much in proportion to the rep-

resentation in the workforce. So I don't think there is a disproportional effect on our profile in this area.

It is a very important area for me. I believe GAO needs to reflect the profile of America and of the Congress, and so we work hard to make sure that we have a good program in this area. And we are very much focused on diversity and inclusion in our work; to get the most out of our people.

NEW HIRE TRAINING

Now, on the training program, I will ask David to do this. You are right. We haven't had as many people to train. We do have a professional development program that is a rigorous 2-year program for people who come into our organization, and we are trying to keep that up and look for cheaper ways to provide training, such as on-line training, et cetera.

GAO'S POSTAL SERVICE WORK

Mr. BISHOP. In response to Ms. Emerson, you mentioned the Postal Service and its operations. Can I just get you to quickly comment on the impact of the laws that we passed requiring them to pay their pensions, health care, and the like on their financial situation?

Mr. DODARO. We have done a recent report on that. It is a very technical area. I would be happy to furnish the report. I will get it to you today.

Mr. BISHOP. Thank you.

Mr. DODARO. If you have questions, we would be happy to talk to you.

Mr. CRENSHAW. Well, thank you very much.

FINANCIAL BENEFITS RESULTING FROM GAO WORK

We have two more agencies to hear from, but one thing I think we should all keep in mind, and we kid about this when we say we get an \$81 return for every dollar we spend. Let us say we give you \$10 billion, and then we get \$800 billion back, and we reduce the deficit.

I imagine one of your reports probably said there is a \$385 billion tax gap. So one guy probably wrote that report. Now, if you had 10 guys like that, multiply 385 times 10, and you have got 10 guys that found \$1 trillion in terms of return on investment.

So I think it is a little bit misleading, and I don't know how you figure. If you said you used to get \$91, I don't know, if that means you had more people, it seems to me that would be in the reverse. If you had less people finding more savings, then you would get even bigger returns. So I am not so sure it is as simple as doubling your staff, then we would find twice as much savings.

And the other side of that point is a lot of times you find savings for us, and guess what, I don't think we get around to ever implementing the savings. I mean, if you found out that we have a \$386 billion tax gap, we haven't bothered to figure out a way to close that gap. Now, from time to time, people say we just hire more IRS agents, and then we close that gap.

But again, we appreciate very much what you are doing, because I don't think there is any question that you do an incredible job of helping us do a better job ourselves. Sometimes we don't follow the instructions that you give us, but we want you to keep on finding those savings and give us an opportunity to try to put them in place.

But having said that, unless anybody has an overriding comment—

Mrs. EMERSON. I actually have an overriding question.

Mr. CRENSHAW. Go ahead.

BACKGROUND OF GAO STAFF

Mrs. EMERSON. I have a very quick one, but I want to follow up to Mr. Bishop's question with regard to the Postal Service, if I might.

When you evaluate the management structure, or the entire Postal Service, and obviously the management structure is a huge part of that, are the staff you have who make recommendations and/or evaluate, do those—are they—do they have specialized degrees in, you know, business administration and those sorts of things? Is that—

Mr. DODARO. Yes.

Mrs. EMERSON. So they actually have had hands-on experience in the private sector, for example, revamping organizations? I mean, I am just curious.

Mr. DODARO. Yes. Well, first we do have people with technical skills. We have a chief actuary, for example, that looked at the pension question and actuarial assumptions. Some of the people, as I recall, working on that may not have private sector experience.

Mrs. EMERSON. In a way—

Mr. DODARO. We do have people who have come from outside the organization.

We also do a lot of studies of best practices, like we studied postal operations in other countries.

Mrs. EMERSON. Right.

Mr. DODARO. We have done a lot of research, and we pride ourselves as being objective and professional. So we do a lot of research on that issue. And there is no question that the Postal Service business model needs change.

Mrs. EMERSON. No, I know, and having worked in the private sector before, just looking at how the management structure of it works, I mean, it is—you don't even need an MBA to figure out how to fix it.

Mr. DODARO. Yes.

Mrs. EMERSON. You know, I was just curious as to the qualifications of the staff. I mean, all the work you do is tremendous. I am not saying that.

But when you get into the real nitty-gritty of trying to totally revamp an entity, I am just curious about that.

Mr. DODARO. I think collectively we have the requisite capabilities and qualifications.

Mrs. EMERSON. Thanks for all of your good work.

Mr. CRENSHAW. Mr. Honda has an overriding comment.

POTENTIAL BENEFITS OF INCREASED INVESTMENT

Mr. HONDA. Not to sound defensive, but the reason why I asked are there other areas that might be identified if we put a little bit more investment in this. When I was on the board of supervisors we asked the D.A. if he had a little bit more money—and this is a time when we had to cut; we are looking at a \$30 million deficit—and he said if I had \$300,000, I can generate \$2 million within 6 months. So he made that, and we saved, you know, the closure of Bill's Ranch. We invested up front \$3 million to create a backbone for our economy. Having done that, we paid that off within a couple of years and saved a lot of money in the future because we were able to consolidate and be more efficient. So that is the kind of things that I tell.

On a personal basis, you know, I got a letter from the comptroller saying, hey, Mike, you have got \$700 in Sacramento that you didn't know you had because the banks had not communicated, or something like that. It is there for a couple of months, and then we are going to absorb it. So I can go after it, or I can leave it there.

So those are the kinds of things that sometimes we look at our situation, and we might be able to get at it with people like yourself that can do that.

IMPLEMENTATION OF GAO'S OVERLAP AND DUPLICATION
RECOMMENDATION

Mr. CRENSHAW. It may be a good study. What we should ask you to do is to, after you have identified all of the potential savings, how many of those savings do we ever get around to implementing, you know? Don't take that as a formal request.

Mr. DODARO. No, no, but actually on that point, on last year's overlap and duplication work on the 81 areas—about 176 specific suggestions—we are going to provide a report card this year on how many—of the 81 were acted on, wholly or in part.

Mrs. EMERSON. When will you be doing that?

Mr. DODARO. Pardon me?

Mrs. EMERSON. What month of this year?

Mr. DODARO. End of this month. It will be February 28th. That report will be out along with a companion report on a number of new areas that we have identified.

Mr. CRENSHAW. Once again, thank you so much for all that you do, and thank you for being here today.

Mr. DODARO. Thank you very much.

Mr. CRENSHAW. We are going to take a 5-minute break while we get ready for the next two agencies.

[Recess.]

[Questions submitted for the record by Chairman Crenshaw follow:]

QUESTIONS FOR THE RECORD
Chairman Crenshaw

FTE/Head Count

Question. One place in your justification you request an ending head count of 3,100 and funding to support 3,046 full-time equivalents (FTE). Could you explain the difference? Since the Committee works with FTE and authorizes FTE. What is the funding request for 46 FTE? In future budget request could we not have a mix of head count and FTE, but just FTE?

Response. Our planned FTE level of 3,046 supports a year end staffing level of 3,100 permanent staff, our intern program, and expertise obtained from reemployed annuitants and consultants on temporary appointments to train and develop staff to help address skill gaps. An FTE refers to the total number of regular hours, not including overtime or holidays, worked by an employee each fiscal year. Annual leave, sick leave, compensatory time off and other approved leave are considered "hours worked" for purposes of defining FTEs. Because not all staff work a full-time schedule or are on board for the full year, as is the case with new hires or departing staff, our FTE level typically differs from and is lower than the number of permanent staff that we have at the end of the fiscal year. In future budget submissions to minimize confusion, we will limit staffing data to FTEs.

The net increase of 46 FTE in FY 2013 results in an increase in GAO's budget for salaries and benefits by approximately \$6.8 million. This figures includes the cost to add 305 new staff throughout the year (increase cost of \$20.079 million), which is offset in part by our expected attrition of 190 staff throughout the year (decrease cost of \$13.322 million). The net of these actions is an increase of about \$6.8 million.

Our FY 2013 budget includes a total of \$430,887 million for salaries and benefits. This represents a net increase of \$11.667 million over our FY 2012 funding level that includes the cost of the increase of 46 FTE as well as incorporates a number of cost drivers in addition to the hiring and attrition of staff described in the previous paragraph. Specifically, the requested funding increase also covers the cost of one extra day, the January 2013 pay raise, and a modest amount to promote staff to positions of higher responsibility to maintain the proper mix of skills and meet succession planning needs. These activities are summarized below.

<u>Activity</u>	<u>Amount (in thousands)</u>
1. An extra day in FY 2013	\$1,651
2. Civilian pay raise of 1.7 percent based on guidance from the Congressional Budget Office and the Legislative Branch Financial Management Committee	5,333
3. Performance-based salary increases provided to employees covered under our banded pay system	1,818 ¹
4. Hiring of 305 permanent staff, 200 interns, and 33 reemployed annuitants	20,079
5. Attrition of 190 staff through retirement, resignation, or transfer to other federal entities	(13,322)
6. Promotions to positions of higher responsibility to maintain the proper mix of skills and meet succession planning needs.	121
7. Savings from lower staffing level at the start of the year, net of full year cost of FY 2012 staffing and pay actions.	(4,013)
Total	\$11,667

¹ The final amount for performance-based compensation adjustments is subject to negotiation with our union. This figure represents management's estimate for these costs.

New FTE

Question. You are requesting over \$20 million dollars to hire 305 permanent staff to fill vacancies resulting from retirement and attrition. If these positions are to fill vacancies resulting from retirement and attrition is not the salary and benefit cost for these positions already part of your base? The way staffing and funding for positions is displayed in the justification it is somewhat confusing. Please provide for the record precisely what you are requesting, is it replacing 305 permanent staff plus 46 new FTE or something else?

Response. We are requesting funding to support a staffing level of 3,046 FTEs—an increase of 46 FTEs over the previous year. To achieve an FTE level of 3,046 FTE, given our starting headcount, we plan to hire 305 permanent staff, 200 interns, and 33 reemployed annuitants, while at the same time losing 190 staff through retirement, transfer to other agencies, or resignation. Our cost to cover our planned hiring in FY 2013 is \$20.079 million. However, this cost can be offset by \$13.322 million which we expect to save through staff attrition based on the timing of expected staff departures and arrival times. This will yield a net increase of approximately \$6.8 million for the increase in our staffing level. When the other elements depicted in our response to the previous question (extra work day, civilian pay raise, etc.) are factored in, the total increase needed for salaries and benefits to support a staffing level of 3,046 FTEs in FY 2013 is \$11.667 million.

Hiring 305 people in FY 2013 will allow us to replace all of the staff that we expect to lose in FY 2013 (190). It will also allow us to add an additional 115 (representing about one-third of the staff that we lost in FY 2011 and project losing in FY 2012 that we were not able to replace (365)). This will allow us to begin the process to partially restore our staff capacity to our target FTE level of 3,250—the optimal level within the current environment to most effectively serve the Congress and produce a high return on the investment in GAO.

Cost of a New FTE

Question. How does the GAO cost out a request for a new position. Is the funding request at the level you plan to hire or something else?

Response. Our hiring cost estimates reflect the level of the staff we plan to hire. Our hiring plan lays out the number of staff that we have identified as critical to meet the demands of our work for each of our pay bands/levels and positions. We estimate our costs based on the average cost to hire future employees into similar positions and pay bands for the upcoming fiscal year. This average cost is based on current salaries, plus any additional increases planned for the upcoming year, such as proposed pay and benefits increases. For example, our workforce plan includes 205 Band I analyst entry-level staff with an average FTE cost of \$77,295, 2 Band II analyst staff with an average FTE cost of \$136,000, and 98 additional staff costed by position across all of our pay bands and position levels, such as Band III analysts, attorneys, senior executives, and administrative and professional staff.

Cost Savings

Question. The GAO states that you achieved savings of \$19.6 million from areas were you reduced costs, eliminated items, suspended existing activities, and deferred investments until future years. Provide a detailed listing of all items that make up this \$19.6 million.

Response. Our fiscal year 2013 budget request includes \$19.6 million in savings from areas where we reduced costs, suspended existing activities, and deferred investments until future years. Some of these savings are partially off-set by other program changes to include price-level adjustments and new program activities. The breakout of the \$19.6 million in savings is outlined as follows.

<u>Program</u>	<u>Amount of change (in thousands)</u>
1. Salaries and benefits - savings from reduced hiring in FY 2012.	(\$5,353)
2. Training and development - savings from planned reductions in training and development courses.	(85)
3. Information technology – reduction in contract costs for activities scheduled for completion in fiscal year 2012, such as records management activities, asset management upgrade, voice mail consolidation, enterprise storage, purchase of multifunction devices, activities to reduce and consolidate servers, and a workforce planning solution.	(7,599)
Reduction in information technology spending also reflects the cancellation of a program to develop a new budget formulation tool that was determined to no longer be justified given current economic constraints, as well as the transfer of some responsibilities from contractors to government staff thereby enabling further reduction in contractors.	
4. Administrative Services - reduction in contract costs due to completion of tasks, such as building maintenance activities and energy saving initiatives, as well as activities to reduce and optimize space requirements in our field office locations.	(1,274)
5. Knowledge Services - cost savings from implementing more efficient, online mail technology in fiscal year 2012.	(17)
6. TARP - reduction to exclude TARP as a separate line item. Beginning in fiscal year 2013, TARP is being included in the base amount.	(5,244)
Adjustment for rounding	(1)
Total savings for reduced costs, suspended activities, and deferred investments	(\$19,573)

Differential Payments

Question. You make differential payments to staff assigned to overseas posts. What are these overseas locations? What functions do they perform at these locations? What are the differential costs?

Response. In FY 2012, we had staff assigned to overseas posts in Iraq and Afghanistan. In December 2011, we discontinued our overseas presence of three people in Iraq. With congressional, State, and Defense Department support, GAO established a presence with three full-time staff in Afghanistan in October 2011. In FY 2012, we will pay \$462,000 for danger pay and premium pay. Employees serving in Iraq and Afghanistan are entitled to additional compensation due to their work schedules and the conditions associated with duty in a hostile foreign location. These payments may include 1) "premium pay" for work performed outside the official work week; 2) foreign post differential for service in foreign areas where conditions differ substantially from those in the continental United States; and 3) danger pay for employees permanently or temporarily assigned

(TDY) to certain overseas areas, which have been declared a "hostile area" by the Department of State. Compensation is provided under regulations established by the Office of Personnel Management and the Department of State.

Our onsite presence supports increased U.S. resources being directed toward the region and will facilitate our ability to support the Congress on key issues concerning the implementation of U.S. strategy in Afghanistan and Pakistan and respond to recent congressional multiyear reporting mandates in the National Defense Authorization Act for Fiscal Year 2010 and the Enhanced Partnership with Pakistan Act of 2009. GAO's staff stationed at the U.S. Embassy in Kabul provide important on-the-ground oversight of U.S. efforts in Afghanistan and support multiple GAO teams completing related work. We have extensively utilized our staff to 1) assess the progress of U.S. goals and objectives, 2) obtain the views of senior military and diplomatic personnel on the ground, 3) gather early intelligence on conditions in the field, and 4) ensure coordination with other oversight entities, such as the Inspectors General's Offices and the Special Inspector General for Afghanistan Reconstruction. Overall, similar to the benefits of having staff on the ground in Iraq, this presence in Afghanistan has helped to facilitate our ability to support Congress on key issues concerning the implementation of U.S. strategy in Afghanistan and to provide more timely responses and briefings to Congress. GAO currently has a number of ongoing engagements involving U.S. programs and operations in Afghanistan, including reviews of the transition of lead security responsibility to the Afghan national security forces, use of contractors to train Afghan National Police forces, oversight of private security contractors, and costs to build and sustain Afghan National Security forces.

Retention Tools

Question. You state that your retention tools are an important factor in your ability to compete in the marketplace with other agencies, nonprofit organizations, and private sector firms. Assuming that monetary rewards are the biggest driver, how are you able to compete with private sector firms?

Response. We strive to be competitive with the private sector by offering various monetary and nonmonetary benefits to our staff. Such benefits have led GAO to once again be recognized in 2011 as one of the Best Places to Work in the federal government by the Partnership for Public Service and one of the Best Places to Work among both private and public organizations located in Washington, D.C., by *Washingtonian* magazine. We recognize that our monetary benefits cannot always be competitive with private sector firms, which is why we emphasize the totality of our compensation package and work opportunities. This is also why we believe that any reduction in our recruiting and retention tools will further erode our competitive position.

Our primary retention tool is the meaningful and interesting work that we perform for the Congress and the American public. However, we recognize that monetary compensation is also an important factor in retaining our highly skilled resources, who are highly sought after by other agencies and organizations, particularly Inspectors General staff and public accounting firms. From a compensation standpoint, our goal is to always at least remain competitive with the executive branch and not be disadvantaged in the benefits that are offered to other segments of the federal workforce.

GAO's focus continues to be on building and sustaining a diverse professional services organization that attracts, hires, retains, and rewards a highly skilled, high-performing workforce. To that end, we champion numerous human capital programs and initiatives and strive to serve as a leading practice organization throughout the federal government. GAO's total compensation package includes both monetary and non-monetary benefits available to staff, including:

- Performance-based compensation²
- Benefits
- Leave
- Awards and Recognition (monetary and non-monetary)³
- Maxi-flex work schedules
- Telework
- Transit benefits
- Training and Development
- Student Loan Repayments⁴
- Childcare facility
- Wellness and Fitness Center

Management/Union Concessions

Question. Since GAO is a partially unionized operation. Give some examples of the concessions made by management and the union as you have dealt with the budget reductions?

Response. The GAO analyst community (approximately two-thirds of the agency) is represented by the International Federation of Professional and Technical Engineers (IFPTE), Local 1921. GAO management has worked closely and collaboratively with the bargaining unit on a number of key opportunities related to cost reductions in FY 2012 and in planning for activities that will impact our budget in FY 2013. For example, in the first quarter of FY 2012, GAO management and the union negotiated the annual budget factor that would be used to calculate performance-based compensation for bargaining unit employees. This figure was approximately half of what the factor was in FY 2011. In addition, the parties also agreed that GAO's cash award program would be suspended for FY 2012. These two agreements resulted in a budget savings of almost \$4 million in FY 2012.

Both of the memorandums of agreement (MOA) that were signed associated with the negotiations that led to these decisions specifically stated that "The goal of this MOA is to provide GAO with additional financial flexibility in a constrained budgetary environment in an effort to reduce the number of positions eliminated during a potential RIF action, and to reduce the impact of any such decision on affected employees." In fact, these agreements, coupled with the fact that they were finalized very early in the fiscal year, were significant elements in management's ability to absorb the agency's \$35 million budget reduction without having to resort to layoffs in FY 2012.

In terms of additional cost saving opportunities for the future, GAO management and the union just completed an MOA that covers the arrangements and procedures associated with the agency's field-based pilot programs to evaluate the opportunity to reduce infrastructure costs based on enhanced telework flexibility for the staff. These pilots, which will be conducted over the next six months in our Boston and San Francisco field offices, are designed to provide enhanced flexibility to GAO staff, achieve improvements in productivity, and significantly reduce rental costs at these facilities. Management and the union have worked collaboratively to establish these pilots and the rules under which they will operate, and will further engage in evaluating their success and opportunities for greater applicability across GAO throughout FY 2012, with an expectation of cost savings opportunities in FY 2013.

² In FY 2012, we reduced funding for this program about 50 percent below FY 2011. We are planning to restore partially funding for this program in FY 2013.

³ In FY 2012, we suspended monetary awards and are seeking to partially restore this funding in FY 2013.

⁴ In FY 2012, we suspended our student loan repayment program and are seeking to partially restore this funding in FY 2013.

Workers Compensation Payments

Question. In fiscal year 2012 we provided the Library of Congress authority to make Workers Compensation Payments from available balances of expired Library of Congress appropriations. This has resulted in a FY 2013 budget reduction for the Library. Your FY 2013 request includes a request for \$1.1 million for your payment to the Department of Labor. Why have you not requested similar authority? Do you have a proposal that we should consider?

Response. Following is proposed language that would provide similar authority to the GAO. If the Congress approves this language for FY 2013, we could reduce our budget request by \$1.1 million.

FUNDS AVAILABLE FOR WORKERS COMPENSATION PAYMENTS

(a) In General--Available balances of expired Government Accountability Office appropriations shall be available to the Comptroller General to make the deposit to the credit of the Employees' Compensation Fund required by subsection 8147(b) of title 5, United States Code.

(b) EFFECTIVE DATE.--This section shall apply beginning in fiscal year 2013 and each fiscal year thereafter.

Return on Investment

Question. In your estimate of for every dollar appropriated to the GAO there is a return on that investment of \$81 dollars. Can you explain how you determine that return on investment amount? Does your return on investment include any amount for what States and local governments make realize? If not, why not? How much of this return can be tracked in real terms? Is it not the case that if all your recommendations are not adopted that this return is much lower?

Response. We calculate our return on investment for fiscal 2011 by dividing the amount of financial benefits resulting from our work (\$45.7 billion) by the amount of our enacted budget authority (\$565.7 million). GAO produces financial benefits when its work contributes to actions taken by the Congress or the Executive Branch to 1) reduce annual operating costs of federal programs or activities; 2) lessen the costs of multiyear projects or entitlements; or 3) increase revenues from debt collection, asset sales, changes in tax laws or user fees. The funds made available in response to GAO's work may be used to reduce government expenditures or be reallocated by the Congress to other priority areas.

The total financial benefit does not include state or local financial benefits. GAO traditionally has sought to be conservative when claiming financial benefits. Consequently, while GAO believes its work results in financial benefits at the state and local level, GAO has not developed a mechanism for tracking such benefits.

Financial benefits are not counted unless GAO can verify that the action has been taken. At the end of fiscal year 2011, 80 percent of the recommendations we made in fiscal year 2007 had been implemented, primarily by executive branch agencies. We assess recommendations implemented after 4 years based on our experience that recommendations remaining open after that period of time are generally not implemented in subsequent years. For example, when an agency restructures or cancels a multi-year program, we check in following years to confirm that the program funding has not been reinstated. Similarly, if an agency imposes higher user fees, we check in the following years to confirm that the fees are still in place. As mentioned above, these funds may be used to reduce other government expenditures or be reallocated by the Congress to other priority areas.

GAO makes many recommendations that relate to both financial and nonfinancial benefits designed to improve management controls and reduce waste and inefficiency. GAO believes that having as many of these recommendations as possible implemented effectively contributes to a more efficient and more economic federal government. Our work contributed to over 1,300 other improvements in government operations that helped to change laws, improve services to the public, and promote sound management throughout government, in areas such as national security, international affairs, public safety and security, program efficiency and effectiveness, and business process and management.

Questions for the Record
Ranking Member Michael Honda

Question. What remains of GAO's Troubled Asset Relief Program? What is the nature of the work? What are the major findings from the TARP review, including lessons learned?

Response. The Emergency Economic Stabilization Act of 2008 (EESA) authorized the creation of the Troubled Asset Relief Program (TARP) to assist financial institutions and markets, businesses, homeowners, and consumers. EESA provided GAO with broad oversight authorities for actions taken under TARP and required that we report at least every 60 days on TARP activities and performance. GAO is required to conduct its oversight of TARP until the last asset acquired by Treasury is sold or transferred out of the ownership of Treasury, or when the last insurance contract issued under TARP expires. We continue to program work to examine TARP activities and performance to fulfill our statutory oversight responsibilities. For example, in March 2012 we plan to issue our next 60-day report, which will examine the status of the Capital Purchase Program (CPP), where over 360 banks were still participating as of January 31, 2012.

The nature of our oversight of TARP has focused on

- TARP's performance in meeting the purposes of EESA;
- the financial condition and internal controls of TARP, its representatives, and agents;
- the characteristics of both asset purchases and the disposition of assets acquired, including any related commitments that were entered into;
- TARP's efficiency in using the funds appropriated for the program's operation;
- TARP's compliance with applicable laws and regulations;
- efforts to prevent, identify, and minimize conflicts of interest among those involved in TARP's operations;
- the efficacy of contracting procedures; and
- the process for making decisions related to unwinding TARP programs.

Currently, our oversight of TARP is focused on the programs that are active and those that closed in the last two years but have outstanding balances that expose Treasury to risk. Many TARP programs continue to be in various stages of unwinding and some programs, notably those that focus on the foreclosure crisis, remain active. Treasury has articulated broad principles for exiting TARP, including disposing of its investments as soon as practicable and seeking to maximize taxpayer returns, goals that at times conflict. Some of the programs that Treasury continues to unwind, such as investments in American International Group, Inc. (AIG), require Treasury to actively manage the timing of its exit as it balances its competing goals. For other programs, such as CPP—which was created to provide capital to financial institutions—Treasury's exit will be driven primarily by the financial condition of the participating institutions.

Since 2008 our oversight and reporting has resulted in over 70 recommendations and matters for congressional consideration to improve TARP's accountability and transparency. Some of our recommendations applied to Treasury's Office of Financial Services (OFS) in general, while others involved specific programs, such as CPP, the Home Affordable Modification Program (HAMP), and the Term Asset-backed Securities Loan Facility (TALF). Our recommendations to Treasury generally fell into three broad categories: (1) transparency, reporting, and accountability; (2) management infrastructure; and (3) communication.

- **Transparency, reporting, and accountability.** Initially, we made a series of recommendations aimed at improving the transparency of several programs and related processes, including CPP and the warrant repurchase process. We also made a number of recommendations addressing the basis for and design of HAMP and the process for making decisions about the use of TARP funds for TALF. More recently we recommended that Treasury improve the transparency of and analytical basis for its decisions to wind down the remaining programs and liquidate investments. We also recommended that Treasury implement metrics to measure the performance of HAMP's first-lien modification program and small business lending programs.
- **Management infrastructure.** To help ensure that OFS established a robust management structure, comprehensive system of internal control, and risk assessment process, we initially made a series of recommendations aimed at addressing challenges associated with establishing a federal program in a short period of time, including staffing, contractor oversight, and internal controls. More recently, we recommended that Treasury finalize a comprehensive system of internal control over HAMP, and develop criteria for evaluating the optimal method and timing for divesting the government's ownership stake in these two automakers. We also recommended that as TARP enters its next phase and winds down, the OFS should take action to finalize a plan for addressing how it will manage its workforce.
- **Communication.** We have made a number of recommendations for improving communication with stakeholders, including the Congress and the public, about TARP. These recommendations are designed to help ensure that Treasury develops a comprehensive communication strategy and clearly articulated vision for TARP that goes beyond simply providing information. In the second year of TARP, we continued to identify opportunities for better communication. For instance, we recommended that Treasury more clearly inform borrowers that they could use the Home Owners Preserve Equity (HOPE) Hotline if they were having difficulty with their HAMP application or servicers, among other things, and that Treasury report to Congress on its plans to assess and monitor the auto companies' performance and ability to repay their loans. Most recently we recommended that Treasury enhance its program-specific press releases by consistently including lifetime cost estimates when reporting on program activities and results.

Finally, we issued a report in 2010 (GAO-10-719) that identified principles for providing government assistance to private sector companies. Drawing on the findings from our TARP reviews, we identified five lessons learned. First, it is essential to develop a strategic and coordinated approach when comprehensive and global governmental action is required. Second, taking actions to ensure the government has a strategy for managing any investments resulting from its intervention is necessary to help mitigate perceived or potential conflicts and manage external influences. Third, the federal government's intervention in private markets requires that those efforts be transparent and effectively communicated. Fourth, establishing an adequate oversight structure to help ensure accountability is essential. And finally, taking steps to mitigate moral hazard will be necessary to not only ensure that regulatory and market-based structures limit risk taking before a crisis occurs, but to also create strong disincentives to seeking federal assistance through utilization of stringent requirements.

Question for the Record

Rep. Denny Rehberg

Question. Rep. Cynthia Lummis and Senator John Ensign have requested a report from the Government Accountability Office (GAO) regarding the Equal Access to Justice Act (EAJA). Specifically, the report requests details about the extent to which data is available on payments made under the EAJA at the Departments of Interior and Agriculture for fiscal years 2000-2010; who has made claims for payment, which of these claims were paid, and how much was paid for each approved claim.

What is the status of the report, and when can Congress expect it to be issued?

Response. We are in the final stages of our work on attorney fee claims and payments at the U.S. Department of Agriculture (USDA) and the Department of Interior (Interior). We expect to submit our draft report to the departments for comment by the end of February, and to issue the report mid-April. As agreed to with requesting staff, to conduct our work, we contacted 33 USDA and 42 Interior agencies, offices, or bureaus; the Department of Treasury (Treasury); and the Department of Justice's (DOJ) Civil Division, Environment and Natural Resources Division, and the Executive Office of United States Attorneys. We asked each department and its agencies, offices, or bureaus if they maintained information on cases where attorney fees were sought. For those that maintained this information, we asked them to provide the case name, litigant name, claim amount, date of the award or payment, payment amount, and statutory basis for the claim for fiscal years 2000 through 2010. Our scope included (1) attorney fees associated with administrative claims involving USDA and Interior; (2) attorney fees associated with cases filed with the courts involving these two departments; (3) payments authorized by EAJA and paid from agency appropriations; and (4) payments authorized by other fee shifting statutes and paid from the Treasury's Judgment Fund. We analyzed the available data gathered from each data source to determine the extent to which complete and consistent information was available.

TUESDAY, FEBRUARY 7, 2012.

GOVERNMENT PRINTING OFFICE

WITNESS

DAVITA VANCE-COOKS, ACTING PUBLIC PRINTER, GOVERNMENT PRINTING OFFICE

Mr. CRENSHAW. We will resume our hearing. We are going to hear from the Government Printing Office. I want to welcome our new Acting Public Printer, Davita Vance-Cooks. I had a chance to meet with her just a few minutes ago and welcome you here.

In particular, your budget request that we are going to consider is \$126 million, and that is the same thing that we appropriated last year. So I think we maybe should say congratulations.

Ms. VANCE-COOKS. Thank you.

Mr. CRENSHAW. It is not many times that we hear people requesting the same amount as they requested or actually that they got the last year, because your budget was reduced last year. And who knows, maybe somebody is going to come here and actually ask us for less than they got last year. But we are moving in the right direction.

Thank you so much for being here. We will put your full statement in the record, and if you would like to make some opening remarks, the floor is yours.

ACTING PUBLIC PRINTER'S OPENING REMARKS

Ms. VANCE-COOKS. Mr. Chairman, Mr. Honda, and members of the subcommittee, good morning, and thank you for inviting me here to discuss GPO's appropriations for fiscal year 2013. In the interest of time, as you have asked, I will briefly summarize my prepared statement, which has been submitted for the record.

The GPO's request for fiscal year 2013 is for a total of \$126.2 million. This is, in fact, the same level of funding that we had for fiscal year 2012. Within that request we are proposing to shift funds away from conventional printing and distribution activities to an increased investment in digital information technologies and systems.

As a result of our cost-cutting actions and a projected decrease in congressional work, we are reducing our request for congressional printing and binding funds by \$7.1 million, which is about 8 percent. Following the zero-based budget review, as directed by this subcommittee, we are requesting a slight reduction in our salaries and expenses account.

GPO's strategic plan is based upon the goal of continuing a transformation into the Government's digital information platform and the provider of secure credentials. Therefore, we want to take these reductions and apply them to our revolving fund, which

would then be used to fund the technological improvements that are needed for our digital information platform.

In particular, the funds will be used for our Federal Digital System, which is called FDsys, that provides the public with on-line access to congressional and other information. We also want to apply the funds to our ongoing development of GPO's Composition System Replacement Project, which we use for producing congressional documents. This time we want to use extensible markup language, or XML.

Last year this subcommittee gave us a very clear message, and that message was: To reduce the cost of operations and improve our technology. Following that direction, to reduce the cost of operations, we ran a buyout, and that buyout resulted in the reduction of approximately 250 positions and generated millions in savings. We also ran the first-ever survey of congressional offices on their printing needs, and this also resulted in cutting hundreds of copies of the Congressional Record. We are also expanding the amount of space that we are making available in our buildings to other agencies to reduce our costs.

At the same time, we are also seeking to improve our technology. We introduced GPO's first mobile app, the Mobile Member Guide, and we supported the Library of Congress' development of an app for the Congressional Record.

We partnered with the National Archives and Records Administration to put the Watergate grand jury records onto FDsys, as well as Air Force One recordings following the Kennedy assassination. Both of these offerings attracted significant public interest and generated hundreds of thousands of visits to FDsys.

We are producing ebooks with Google. We are developing our own ebook capability internally. We have even embraced social media with the launch of our Facebook page. We are expanding the marketing of our secure credentials. In fact, it was GPO that designed, printed, and manufactured the FBI special-events credential that was used by public safety personnel during the Super Bowl this past Sunday. And this is what it looked like, and I sincerely hope your team won. This is the secure part of the credential that we designed, produced, and manufactured, and this is what the credential actually looks like.

Mr. BISHOP. So it has got a computer chip in it?

Ms. VANCE-COOKS. I can't really talk in public about all the credential's features, but would you like to take a look at it?

In conclusion, our aim is to reshape the GPO as the Government's digital information platform by making it more cost-effective, more efficient, and much more responsive. Two years ago our appropriations were approximately 15 percent higher than they are today. Our plan is to move the GPO forward with a funding level in fiscal year 2013 that is equivalent to what it is today.

So, Mr. Chairman, Mr. Honda, and members of the subcommittee, this concludes my opening remarks, and I would be pleased to answer any questions that you may have.

[The prepared statement of Ms. Davita Vance-Cooks follows:]

Davita Vance-Cooks
Acting Public Printer

**Prepared Statement before the
Subcommittee on Legislative
Branch Appropriations, Committee
on Appropriations, U.S. House of
Representatives**

*On GPO's Appropriations Request
for FY 2013*

HT-2, The Capitol

Tuesday, February 7, 2012
9:30 a.m.



Mr. Chairman, Representative Honda, and Members of the Subcommittee on Legislative Branch Appropriations:

It is an honor to be here today to present the appropriations request of the Government Printing Office (GPO) for fiscal year (FY) 2013.

Our request is for the Congressional Printing and Binding Appropriation and the Salaries and Expenses Appropriation of the Superintendent of Documents, both of which are included in the annual Legislative Branch Appropriations bill. These two accounts cover GPO's provision of congressional information products and services as authorized by law and our provision of public access to congressional and other Government information products through statutorily-established information dissemination programs under the Superintendent of Documents.

All other GPO functions and activities—including the production of U.S. passports for the State Department as well as secure credentials for congressional and agency use, the procurement of information products and services in partnership with the private sector, the sales of Government information products and services to the public, and related operations—are financed on a reimbursable basis through GPO's business-like Revolving Fund, which also is authorized through the annual Legislative Branch Appropriations bill.



Background GPO is the Federal Government's primary centralized resource for producing, procuring, cataloging, indexing, authenticating, disseminating, and preserving the official information products of the U.S. Government in digital and tangible forms. The agency is responsible for the production and distribution of information products for all three branches of the Federal Government, including U.S. passports for the Department of State as well as the official publications of Congress, the White House and other Federal agencies, and the courts.

Along with sales of publications in digital and tangible formats to the public, GPO supports openness and transparency in Government by providing permanent public access to Federal Government information at no charge through our Federal Digital System (www.fdsys.gov), which today makes more 680,000 Federal titles available online from both GPO's servers and links to servers in other agencies, and sees more than 13.1 million documents downloaded every month. We also provide public access to Government information through partnerships with approximately 1,220 libraries nationwide participating in the Federal Depository Library Program. In addition to GPO's Web site, www.gpo.gov, we communicate with the public routinely via Twitter twitter.com/USGPO, YouTube <http://www.youtube.com/user/gpoprinter>, and Facebook <http://www.facebook.com/USGPO>.

GPO first opened its doors for business 151 years ago, on March 4, 1861, the same day Abraham Lincoln was inaugurated as the 16th President. Our mission can be traced to the requirement in Article I, section 5 of the Constitution that "each House shall keep a journal of its proceedings and from time to time publish the same." We have produced every great American state paper—and an uncounted number of other Government publications—since President Lincoln's time, including the Emancipation Proclamation. Social Security cards, Medicare and Medicaid information, census forms, tax forms, citizenship forms, military histories ranging from the *Official Records of the War of the Rebellion* to the latest

accounts of our forces in Iraq and Afghanistan, emergency documents like the ration cards and the "Buy Bonds" posters used during World War II, the Warren Commission Report on President Kennedy's assassination, the Watergate transcripts, the 9/11 Commission Report, Presidential inaugural addresses, Supreme Court opinions, and the great acts of Congress that have shaped our society—all these as well as millions of other documents from the historic to the humble have been produced by GPO on their way to use by Congress, Federal agencies, and the public. Last year we opened a public exhibit on GPO's history that has received extremely positive reviews. I encourage all of you to come by for a visit.

For the Clerk of the House, the Secretary of the Senate, and the committees of the House and the Senate, we produce the documents and publications required by the legislative and oversight processes of Congress, including the daily *Congressional Record*, bills, reports, legislative calendars, hearings, committee prints, and other documents, as well as stationery, franked envelopes, and other materials such as memorials and condolence books, programs and invitations, phone books, and the other products needed to conduct business of Congress. We also detail expert staff to support the information product requirements of House and Senate committees and congressional offices such as the House and Senate Offices of Legislative Counsel.



GPO and Digital Information Technologies GPO's present and future are clearly being defined by digital technology, and digital technology itself has radically changed the way printing is performed today. This is especially true where the information products used by the House and Senate are concerned. GPO's conversion to digital databases for the composition of congressional publications occurred more than a generation ago. Today the activities associated with creating congressional information databases comprise the vast majority of the work funded by our annual Congressional Printing and Binding Appropriation.

In addition to using these databases to produce printed products as required by Congress, we upload them to the Internet via FDsys. Since we first went online with congressional information in 1994, we have provided Congress and the public with the definitive source not only of legislative but executive and judicial information online.

Our creation of digital databases of congressional information from which we can print and provide online public access has dramatically increased productivity and dramatically reduced costs to the taxpayer. As our budget submission shows, our digital production systems have reduced the level of the Congressional Printing and Binding Appropriation by more than two-thirds in constant dollar terms since 1980 while expanding our information capabilities exponentially.

GPO's congressional database systems also form the basic building blocks of other information systems supporting Congress. Our congressional information databases are provided directly to the Library of Congress to support its THOMAS system as well as the legislative information systems the Library makes available to House and Senate offices. GPO and the Library are also collaborating today on the digitization of previously printed documents, such as the *Congressional Record*, to make them more broadly available to Congress and the public, and we are jointly developing a new process for updating the digital edition of the *Constitution Annotated*.

GPO's digital systems also support other key Federal publications, including the U.S. Budget and, most importantly, the *Federal Register* and associated products, which we also

produce. Our advanced authentication systems, supported by public key infrastructure (PKI), are an essential component for assuring the digital security of congressional and agency documents.

The other major products that GPO produces are U.S. passports for the Department of State, the premier component of our secure and intelligent documents business unit. At one time no more than a conventionally printed document, passports today incorporate a chip and antenna array capable of carrying biometric identification data, which with other security features has transformed this document into the most secure identification credential obtainable. We have also developed a line of secure identification "smart cards" to support the credential requirements of the Department of Homeland Security for certain border crossing documents, and our secure credential unit has been certified as the only government-to-government provider of credentials meeting the requirements of Homeland Security Presidential Directive 12 (HSPD-12).

GPO in Partnership with Industry Other than congressional and inherently governmental work such as the *Federal Register*, the Budget, and secure and intelligent documents, we produce virtually all other information product requirements via contracts through a partnership with the private sector printing industry. In fact, our procurement operation handles approximately 75% of all work sent to GPO for production, currently amounting to \$350 million to \$400 million annually. This system is one of the Government's longest running and most successful programs of utilizing the private sector, which is represented by more than 16,000 individual firms registered to do business with us, the vast majority of whom are small businesses averaging 20 employees per firm. Contracts are awarded on a purely competitive basis; there are no set-asides or preferences in contracting other than what is specified in law and regulation, including a requirement for Buy American. This partnership provides great economic opportunity for the private sector.



GPO and Open, Transparent Government Producing and distributing the official publications of our Government fulfills an informing role originally envisioned by the Founders, when James Madison said:

A popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy, or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.

A key mechanism for this purpose is the Federal Depository Library Program, which today serves millions of Americans through a network of some 1,220 public, academic, law, and other libraries located in virtually every congressional district across the Nation. For more than a century, these libraries have served as critical links between "We the People" and the information provided by the Federal Government. GPO provides the libraries with information products in online or tangible formats, and the libraries in turn make these available to the public at no charge and provide additional help and assistance to depository library users. One of the other programs we operate is in fulfillment of an international treaty. Under it, we distribute certain Federal publications to other governments abroad as designated by the Library of Congress. In return, they send the Library their official publications, which the Library then makes available for the use of Congress and the public.

Along with these programs, we also provide public access to the wealth of official Federal information through public sales featuring secure ordering through an online bookstore for GPO sales publications and a partnership with the private sector to offer Federal publications as e-Books. We also operate effective and efficient information distribution programs for other Federal agencies on a reimbursable basis, including the General Services Administration (GSA) Consumer Information Center publications.

Results of FY 2011 I am pleased to report that GPO's businesslike operations and its record of savings for the taxpayer resulted in the generation of \$5.6 million in net income for the year. As former Public Printer Bill Boarman noted in his annual report to Congress, however, the achievement of this positive financial result was not foreordained. Instead, the financial condition of the agency earlier in the year and the fiscal realities of 2011 presented GPO with a number of serious challenges. Overhead costs had increased significantly in recent years and were projected to increase further, threatening our financial stability. There was also a longstanding problem of nearly \$30 million in unrecovered payments owed to the GPO by Federal agencies.

In response, we worked with this Subcommittee and its counterpart in the Senate to resolve GPO's funding for FY 2011 at a level that was significantly lower than what was originally requested. We cut our annual spending plan for FY 2011 as previously submitted to the Joint Committee on Printing by 15%. We held the line on salary increases consistent with the pay freeze ordered by the President, reduced the number of senior-level managers, and implemented controls on hiring, travel, overtime, and related discretionary accounts. Together these actions resulted in a significant reduction in overhead expenses. To address the problem of outstanding payments from Federal agencies, we created a multi-disciplinary task force, an effort that by yearend reduced the balance of outstanding payments by more than a third.

To help Congress reduce its printing costs, during FY 2011 we conducted the first-ever survey of Senate and House offices on their continued need for daily printed copies of the *Congressional Record* and other documents. The survey resulted in an 18% reduction in the number of *Record* copies printed, the largest single-year reduction since GPO first introduced the online *Record* in 1994 (not counting the House's elimination of copies for public agencies and institutions designated by Representatives in 1995, the average annual reduction in the number of *Record* copies printed since 1994 has been 4%).

During FY 2011, we also conducted a voluntary separation incentive program, or buyout, to reduce staffing in anticipation of lower appropriations and other revenue sources. The buyout targeted a reduction of 15% of the workforce and, in combination with other staffing reductions, we achieved 95% of that goal, reducing GPO's workforce by 312 positions to 1,920, the lowest level in more than a century.

Another cost-saving initiative has involved discussions with outside agencies over their potential use of available GPO space, which could significantly reduce our facilities expense, as recommended by this Subcommittee in its report on our FY 2012 appropriations. We now have an agreement with the Architect of the Capitol to expand its use of our space, and we are in discussions with three other entities over their use of GPO space.

While we worked to reduce costs in FY 2011, we also made a commitment to do more with less. We developed and released a Strategic Vision Plan that emphasizes customer



service. The focus of the plan has begun to take hold as shown by the results of a recent survey of GPO's customer agencies. We gained the approval of the Joint Committee on Printing for an annual spending plan for FY 2012 that will yield new efficiencies in GPO's services while reducing costs by 6.4% compared with last year's plan. We continued the development of FDsys as Congress and Federal agencies move increasingly to the use of digital information products, and we added several new collections last year. At the request of the National Archives and Records Administration (NARA), we also used FDsys to support public access to the previously unreleased grand jury proceedings involving President Nixon, and last week we supported NARA again in releasing the audio tapes made on Air Force One as it returned to Washington following the assassination of President Kennedy.

We started a Facebook page for GPO, implemented a new pilot project to make Federal court opinions freely available online to the public, and expanded our partnership with Google Books to include Federal consumer-oriented information made available by the GSA as well as the first volume of the *Public Papers* of President Obama. We released a mobile app of our online *Member Guide*, the first of its kind by GPO, providing the public with access on a variety of devices to photos and other information about Members of Congress, and recently we supported the Library of Congress in its development of a new *Congressional Record* app for the iPad, as requested by the Committee on House Administration.



In summary, GPO's program of reducing costs while continuing to expand GPO's critically important information services to the Senate and House of Representatives, as well as Federal agencies and the public, is working and showing real and measurable benefits, and we plan to continue following this path.

FY 2013 Appropriations Request We are requesting a total of \$126.2 million for FY 2013 that will enable us to:

- meet projected requirements for GPO's congressional printing and binding operations during FY 2013;
- fund the operation of GPO's statutory information dissemination programs;
- continue the development of FDsys and implement other improvements to facilities infrastructure related to health and safety.

Our request represents no increase over the level of funding provided for FY 2012 in P.L. 112-74. Within our flat funding request, we are proposing to shift approximately \$7.3 million from the Congressional Printing and Binding and Salaries and Expenses appropriations to the Revolving Fund in order to expand our investments in digital information technology projects, including projects supporting increased online access to congressional and other Federal information, modernization of GPO's composition processes supporting congressional work, and related initiatives.

Congressional Printing and Binding Appropriation We are requesting \$83.6 million for this account, representing a decrease of about \$7 million, from the level of funding provided for FY 2012.

The estimated requirements for FY 2013 include a marginal price level increase due to projected increases in printing costs. However, this increase is more than offset by projected decreases in volume due principally to anticipated workload reductions for the *Congressional Record*, miscellaneous printing and services (this workload category increased in FY 2012 in part due to inaugural printing requirements), calendars, hearings, and bills, resolutions, and amendments. These workload decreases will also offset the production of the 2012 edition of the *U.S. Code*, which by law is issued in a new edition every 6 years.

Salaries and Expenses Appropriation of the Superintendent of Documents

We are requesting \$34.7 million for this account, a decrease of about \$300,000 from the level approved for FY 2012.

The requested funding will cover mandatory merit and other pay increases for 114 FTE's, the same number as FY 2012, as well as price level increases. The most notable workload increase will be for the production and distribution of copies of the *U.S. Code* for Federal depository libraries, since this is considered an essential FDLP publication. However these costs will be more than offset by a significant reduction in facilities and overhead costs formerly billed to this account resulting from the relocation of our depository distribution function from the main GPO buildings in Washington to our Laurel, MD, warehouse, as well as a reduction of other non-recurring costs (including the FDLP's migration and modernization of legacy systems which was funded in FY 2012), which will no longer be required to be funded in FY 2013.



Revolving Fund We are requesting appropriations of \$7.8 million for this account, to remain available until expended, to fund essential investments in information technology development and facilities improvements. Our request represents an increase of \$7.3 million over the level of funding provided for this account for FY 2012.

The request includes \$7.3 million for information technology development, including \$3.9 million to continue developing FDsys, \$1.5 million each for GPO's Composition System Replacement and Oracle business system projects, and \$400,000 for IT security improvements. These IT projects include components that will have a direct impact on the provision of digital information production and dissemination services for Congress, such as the development of a composition system to replace GPO's aging Microcomp-based system, improved support for congressional publications ingested into FDsys, and digitization of the bound *Congressional Record*, a project that GPO is working on in partnership with the Library of Congress. In addition, we are requesting \$500,000 for life/safety improvements for our buildings that include continued elevator repairs and renovation and new fire pumps.

Mr. Chairman, Representative Honda, and Members of the Subcommittee, this concludes my prepared statement. We look forward to working with you and the Subcommittee in your consideration of our appropriations request for FY 2013.

CONGRESSIONAL RECORD SURVEY

Mr. CRENSHAW. Thank you very much for those words. I was going to ask you, like I have asked the other agencies, when you received a reduction last year, how did you do with that, and how did you put your budget together from a zero base. But I think you have outlined very succinctly how you did that. It is a real model for all of the agencies to recognize that these are difficult times, we have got to be more efficient, we have got to be more effective, and I think that is exactly what you have outlined to us. So thank you for that.

Maybe just one question that I have. When you talked about the app, and you talked about the Congressional Record questionnaire, talk a little bit more about how is that going? Are people using that app? Because when you sent out the questionnaire saying, do you want to keep receiving the Congressional Record, especially when now you can read it on line now that you have your own app, do you have the statistics in terms of how many people actually responded to that questionnaire about the Congressional Record and what the responses were. Can you assess how much people are using that? I don't know if you can really tell, but, more importantly, how the Members do in their part of responding to the questionnaire, and what were their responses?

Ms. VANCE-COOKS. The Congressional Record survey initially elicited a 50 percent response rate. We then set up a website congressional offices can use to change their print needs, and then we followed up with cold calls. As a result we had about an 18 percent reduction in the number of Records printed for Congress, the largest percentage reduction in print volume annually since we first went online with the Record. So we went from about 3,600 or something like that to 2,900; about 668 copies that we no longer produce. The savings is about \$346,000.

In terms of how the new Congressional Record app is doing, you would have to ask the Library of Congress, because we just provide the data to them, and they upload it to their app. But I will be happy to provide information on our experience with the online Record and the survey we ran.

[The information follows:]

GPO's Congressional Record Survey

GPO's Congressional Record survey was conducted from May through October 2011. The survey went out initially in May for a two-week period to 650 addresses in the House and Senate, including Member offices, committee offices, and leadership and other offices. The initial release was accompanied by Dear Colleague letters in the House and the Senate. The survey subsequently was extended for an additional two-week period. The survey itself had about a 50% response rate. To continue providing congressional offices with an opportunity to change the quantities of print documents they receive, in August GPO released a Web portal for House and Senate Member offices to use for that purpose (the portal is available at www.gpo.gov). The portal was advertised by an email to the 650 addresses involved in the survey. In September GPO issued a press release that further advertised this effort, which was picked up by *Roll Call* and the Sunlight Foundation. Subsequently GPO staff made cold calls to all House and Senate Member offices and committee offices that did not respond to the survey or who had not used the Web portal. All such offices were contacted by the end of October.

Results:

- 288 House Member and other offices opted out or reduced their receipt of the Congressional Record (representing 267 copies), Congressional Record Index (337 copies), Federal Register (286 copies), and Federal Register Index (286 copies).
- 9 House committees and 1 subcommittee requested to opt out or reduce their receipt of the Congressional Record (involving 19 copies). In addition, 13 committees requested to opt out or reduce their receipt of the Congressional Record Index (22 copies); 14 requested to opt out or reduce their receipt of the Federal Register (19 copies); 14 requested to opt out or reduce their receipt of the Federal Register Index (20 copies); and 11 requested to opt out or reduce their receipt of the Code of Federal Regulations.
- 60 Senate Member and other offices requested to opt out or reduce their receipt of the Congressional Record (245 copies), Congressional Record Index (244 copies), Federal Register (83 copies), and Federal Register Index (85 copies).
- 13 Senate committees requested to opt out or reduce their receipt of the Congressional Record (involving 61 copies). In addition, 12 committees requested to opt out or reduce their receipt of the Congressional Record Index (65 copies); 12 requested to opt out or reduce their receipt of the Federal Register (22 copies); 12 requested to opt out or reduce their receipt of the Federal Register Index (24 copies); and 4 requested to opt out or reduce their receipt of parts of the Code of Federal Regulations.

Analysis:

- In May, the total number of Congressional Records printed daily was 3,623. By October it had declined to 2,955, a reduction of 668, or 18%. The majority of this reduction was attributable to opt-outs requested by congressional offices, totaling 590 as a result of the survey. The majority of copies of the Congressional Record that continue to be printed

(more than 2,000 of them) are for congressional use. Copies are also printed for Federal agencies, distribution to Federal depository libraries, and public sales.

- There has been a 17-year decline in the number of Congressional Records printed, principally as the result of GPO offering the Record online beginning in 1994. At that time, GPO printed approximately 19,500 copies daily. Not counting the House's elimination of copies for public agencies and institutions designated by Representatives in 1995, the reduction since then to the 2,955 printed daily today has been approximately 75%, an average reduction of about 4% annually over that period. By comparison, the survey resulted in an 18% reduction in a 6-month period.
- In May, there were 5,476 copies of the Federal Register being printed daily. By October the number was 2,644, a reduction of 2,832, or about 52%. The majority of this reduction appears to be attributable to the White House initiative to reduce the number of Registers produced for Federal agencies. The total reduction attributable to the survey was 410.
- In terms of cost reduction, GPO computed the incremental cost of a daily copy of the Congressional Record, Congressional Record Index, Federal Register, Federal Register Index, and Code of Federal Regulations. The savings attributable to the survey are shown below:

<u>Publication</u>	<u>Cost per copy</u>	<u>Total copies reduced</u>	<u>Cost reduction</u>
Congressional Record	\$ 500	590	\$295,000
Congressional Record Index	76	668	50,768
Federal Register	978	410	400,980
Federal Register Index	16	415	6,640
Code of Federal Regulations	1,369	--	-- *
Total			\$753,388 **

* Only committees receive the CFR, and they generally receive only those parts or volumes of the CFR that pertain to their jurisdiction, not the whole publication, so cost savings from reductions in this category have not been determined.

** The cost reduction to the Congressional Printing and Binding Appropriation would be \$345,768, the total for the Congressional Record and Congressional Record Index only. The cost of copies of the Federal Register publications provided to congressional offices is funded through the page rate paid by Federal agencies that publish in those publications.

SURVEY FOLLOWUP

Mr. CRENSHAW. You know, it is amazing, after a questionnaire and two follow-up calls, you still only have half of the Members responding, and based on that response, we saved \$350,000. You would think if the other 50 percent of the people respond, in kind of a similar way, we would save another \$350,000. We ought to figure out a way to do that questionnaire again and see if we can't get a better response.

Ms. VANCE-COOKS. Sure.

Mr. CRENSHAW. It is not that hard just to answer probably a simple question: Would you like to keep receiving copies of the Congressional Record, or would you not?

Ms. VANCE-COOKS. We would be happy to do that.

Mr. CRENSHAW. We will figure out something. Maybe we will get together and talk about how that took place, the ball is in our court to tell you when to do that again.

Ms. VANCE-COOKS. Okay.

Mr. CRENSHAW. Mr. Honda, do you have a question?

Mr. HONDA. Thank you, Mr. Chairman.

Welcome.

Ms. VANCE-COOKS. Thank you.

DOCUMENTS IN XML FORMAT

Mr. HONDA. The GPO has been an integral part of the House of Representatives' ongoing effort to increase access to documents for the public. And one of the efforts that has been highlighted is a need to make documents available to the public in the XML format.

I have got a couple of questions. XML, what does that mean? How does that format allow access to the public and further advanced access for research efforts? And then I guess the question would be, why XML, or is XML more transparent in terms of for, you know, searchable materials, such as the PDF that we used to have?

Ms. VANCE-COOKS. XML, as you know, is designed to store and transport information across the Web. The important part about XML is that it allows us to repurpose the data. We can reuse it. It is almost what you would call something that allows us to have a rich data set. From that rich data set, we can do so many things. We can create ebooks, and we can have mobile apps, and so on and so forth. So that is why XML is very important.

XML is already being used by the House to prepare bills through the House Office of Legislative Counsel. Some House committees, including some appropriations subcommittees and the House Committee on Rules are using XML in preparing reports and documents.

Mr. HONDA. So it is a technique of scanning the literature to see if there is any information relative to the same thing that you want to write in terms of bills. What does XML stand for?

Ms. VANCE-COOKS. Extensible markup language.

The reason why we are interested in XML is because right now we have a composition system that we use to compose your documents that is not XML-based. And our composition system is almost 30 years old, and it is very challenging to maintain. It is also

not easy to run documents prepared in XML through it. Today, XML is the legislative data standard for the House and the Senate. So it is very important for us to match our system to that standard, so we want to create a new composition system that, in fact, uses XML.

Mr. HONDA. Is this a note redundancy, or prior actions that would be similar so that—on the research—I guess I am just trying to wrap my head around what it is that you are telling me.

Ms. VANCE-COOKS. Our composition system needs to be able to accommodate documents prepared in XML more easily and economically.

Mr. HONDA. Okay.

Ms. VANCE-COOKS. XML is being used increasingly. The reason why you hear us talk about a Composition System Replacement project is to make sure that we accommodate that change. The important issue to remember here is that XML is being increasingly used by the House and by the Senate, and it is their legislative data standard, and it does allow us to repurpose the data and to do so many additional things with it.

Mr. HONDA. So you are becoming more in line with what other offices are doing.

Ms. VANCE-COOKS. Yes, sir, absolutely. And it is very important for us to do that.

Mr. CRENSHAW. Mr. Bishop.

EEO COMPLAINTS AT GPO

Mr. BISHOP. Thank you very much. And again, I would like to formally welcome Ms. Vance-Cooks to your new position and to the committee.

One question that I asked your predecessor Mr. Boarman last year concerned the significant number of discrimination complaints that were filed by the African American employees at GPO. These employees accused officials of racial discrimination and denying pay and promotions. If you could, just tell us, has any progress been made over the last year to resolve the complaints, and what efforts do you undertake to promote diversity in promotions and management at GPO?

Ms. VANCE-COOKS. You have another question after that?

Mr. BISHOP. Yes, on a different subject.

Ms. VANCE-COOKS. Okay. I am pleased to report that our progress on formal complaints has improved significantly. I have some stats in front of me. In 2010, we had 206 informal counseling sessions and 53 formal complaints. By fiscal year 2011, we had dropped those down to 81 informal counseling sessions and 34 formal complaints.

We are doing very well in terms of improving our response to EEO complaints, and that is primarily because we are taking the time to talk to the individuals about their complaints. A lot of times we received complaints because individuals are angry about the fact that they were denied a promotion, or the fact that they claim there is a hostile work environment. We are working much closer with individuals one-on-one to explain to them the reasons why they were not selected; to explain what a hostile work environ-

ment actually means. It is very important in the area of EEO that people take the time to understand what the issues are.

Another issue that was bubbling was the issue of training and the issue of opportunity. We are very, very committed to making sure that GPO's employees are trained, especially now that we are transitioning from print on paper to digital. They are nervous. They are concerned. And so we have identified a training program for them which is based upon making sure that they have IDPs, individual development plans.

Every GPO employee must have an IDP. That IDP identifies what training is required for them in order to be of value to the organization as we shift. That IDP also is a close collaboration between the supervisor as well as the employee. So I anticipate that we will have fewer EEO complaints as we move down the line.

Also, we have developed a program called LEAD, which is for individuals who want to be supervisors, but have yet to reach that level. It is a series of 10 modules where we identify what the leadership skills are supposed to be, and they voluntarily go through it.

So I am confident we are making progress. I must admit, by the fact that I am sitting here in front of you and you and you, that we have made a good bit of progress.

FUTURE OF PRINTING TECHNOLOGY

Mr. BISHOP. Thank you very much. I appreciate that very much. It is good news. Welcome.

You alluded to the fact that technology has changed and your processes have changed. Reflecting at the beginning of the 20th century, I think it was the Linotype machine, which significantly reduced the cost of printing. Then came the move from hot type to photocomposition in the 1970s, which further cut the costs of printing. And, of course, the shift to electronics has been one of the greatest changes to the printing office in its history.

Looking into your crystal ball, what do you think the future of printing will look like? What new technologies do you see on the horizon that will further transform the printing industry? And how do you see GPO's role and mission evolving as these technology changes come into play?

Ms. VANCE-COOKS. I think one of the most unique characteristics of the GPO is the ability to respond to the customers' needs. We watched the customers change over the years; and, as you articulated, the customers have had different requirements based upon the different technologies and products that they need. So we are watching the trends very carefully.

I do believe, sitting here, that the world will become more and more digital. That is a fact. How that digital will play out is unclear, because I do not have the ability to look into a crystal ball. But I do believe that the GPO needs to develop more digital information applications. We need to be prepared for the fact that our customers want digital information now, they want it instantaneously, they want it authentic.

One of the things that we have done is to try to make sure that we can be considered the sole source for authenticated information. So you will see us do that more and more, which goes back to your

XML question. We are looking at how to authenticate information prepared in XML.

Not only will it be a requirement for it to be faster, I do see us getting more involved into apps. I do see us becoming much more involved in the development of apps.

Concerning authentication of digital information, which is very important to our customers in Congress, Federal agencies, and the public, our PDF documents right now are digitally signed, which assures you that you do in fact have the authentic, official document. That document looks the same as it did when it was original. This is a unique ability of the GPO. No other agency does this. We have a significant market niche for this service.

Unfortunately, authentication is one of the limitations of XML today. It is very difficult at this point to find off-the-shelf software to digitally authenticate data in XML format. We have been told that if we want to authenticate XML a system to do so would have to be customized, which of course means major dollar signs. So, right now, we are in the process of looking for something that is off the shelf.

In summary, you will see GPO become much more market-niche oriented, much more aware of digital information technology, and much more responsive to getting that information to the public quickly and with authentication.

Mr. BISHOP. Thank you.

Ms. VANCE-COOKS. You are welcome. Thank you.

Mr. CRENSHAW. I can tell you we have come a long way. When I first entered the business world some years ago, the biggest advancement that I saw was, instead of taking a piece of carbon paper and putting in the typewriter, they actually invented some reusable carbon paper.

Ms. VANCE-COOKS. I remember. I don't know about you, but I was excited by that.

Mr. CRENSHAW. We certainly have come a long way.

Mr. HONDA. The white-outs.

Mr. CRENSHAW. The white-outs. And then the Xerox machine.

Ms. VANCE-COOKS. Then it was erasable paper. That was terrific.

Mr. CRENSHAW. Thank you so much for being here today. We look forward to working with you in your new position. Thank you for the work that you are doing to bring us into the 21st century and do things more efficiently and more effectively. So we look forward to seeing you again. Thank you very much.

Ms. VANCE-COOKS. Thank you very much, Mr. Chairman.

[Questions submitted for the record submitted by Chairman Crenshaw follow:]

Questions for the Record from Chairman Crenshaw

Revolving Fund

Question: You have requested \$7.8 million for the Revolving Fund. This entire request is offset from reductions in the Congressional Printing and Binding account and the Superintendent of Documents Program. Why is this request not directly covered by the Revolving Fund? Why is it necessary to appropriate funds for these projects? Can you utilize any of the salary savings from the buyout to cover this request? What is your priority for funding within this request?

Response: For strategic investments and renovations of facilities related to health and safety, GPO requests appropriations to the Revolving Fund, which serve as additions to working capital for these specific purposes. GPO has received appropriations to the Revolving Fund for these purposes in every year since FY 2001 except for FY 2002, 2005, and 2008.

In making our request for level funding this year, we are seeking to transfer a portion of our funding away from conventional printing and distribution in the Congressional Printing and Binding and Salaries and Expenses Appropriations, and toward increased investment in GPO's digital information infrastructure. The \$7.8 million requested for FY 2013 is directly related to items that support GPO's mission to provide digital public access to congressional information (Federal Digital System), improve the agency's operational efficiencies (GBIS), and renovate elevators and the fire suppression system for life/safety purposes. Funding these items this year from the resources in the Revolving Fund would limit GPO's ability to fund the necessary strategic capital investments and put at risk the transition to digital technology. The Revolving Fund may also be required to support emergency funding if portions of GPO's aging information technology infrastructure and applications fail and need to be replaced quickly.

Our priorities under our request are ranked as follows:

Federal Digital System	\$3,890,000
XML Composition System	1,500,000
Facilities Projects	460,000
GBIS (Oracle) System	1,500,000
Other IT Projects	490,000

Space

The 2012 Committee Report encouraged GPO to explore the possibility of lease agreements for the 100,000 square feet of vacant space. Update us on what action you have taken to lease this vacant available space.

Response: GPO is currently leasing approximately 76,000 square feet of storage and office space, including some covered parking space, to the Architect of the Capitol (AOC), the U.S. Capitol Police, and the Senate Sergeant at Arms, and is concluding an agreement with the AOC for the lease for approximately 10,000 more square feet for a refinishing operation, which will bring the total to nearly 86,000 square feet. As we testified last year, up to an additional 100,000

square feet of space may be made available in the next couple of years. Currently we are in direct discussions with two entities for approximately 38,500 square feet of this space, and have been approached by other agencies with requests for space that, if honored, would exceed our projected availability. We will continue to work with these groups to implement our plan, as well as the Committee's direction, to maximize the availability of space for use by other agencies on a reimbursable basis to help offset our facilities and overhead expense.

Questions for the Record from Ranking Member Honda

XML Data

Question: Does XML make it easier for other websites to manipulate data? How can Congress ensure that bills and transcripts remain intact and a trusted source once they are moved from the government's domain to a private site if the data is in XML format?

Response: Composing publications natively in XML permits data to be reused and repurposed, not only for print output, but for richer datasets that could be more easily manipulated into eBooks, mobile apps, and other forms of digital and tangible content, including data mashups and other analytical tools.

However, XML has limitations in ensuring the security and authenticity of data. There is a technology gap today for the application and verification of digital signatures on large quantities of XML documents, such as bulk data downloads.

Currently, to assure the authentication and integrity of the digital version of documents issued by Congress and Federal agencies, GPO uses digital signature technology. By using digital signature technology to add the seal to a PDF document, GPO attests that the document has not been altered since it was authenticated and disseminated by GPO. A PDF document disseminated by GPO matches the printed document, which is the official format for many key legislative publications.

GPO offers access to bulk data download files in XML of the Federal Register, the Code of Federal Regulations, the U.S. Government Manual, and the Public Papers of the Presidents, at the request of the Office of the Federal Register (OFR), which is responsible for issuing these publications. In the User Guide that accompanies the Federal Register bulk data download, at http://www.gpo.gov/fdsys/bulkdata/FR/resources/FDsys_OFR-XML_User-Guide-v1.pdf, language drafted by the OFR makes it clear that the XML files are not considered the official files and that they are not authenticated by digital signature, as follows:

1. Introduction

The U.S. Government Printing Office (GPO) and the National Archives' Office of the Federal Register (OFR) partnership is offering bulk data downloads of Federal Register files to the general public via Data.gov and FDsys. This effort began when the President challenged Federal agencies to create a more open and transparent government, promote accountability, and provide information to citizens about what their Government is doing (see 74 FR 4685, January 26, 2009 at <http://www.gpo.gov/fdsys/pkg/FR-2009-01-26/pdf/E9-1777.pdf>). The Public Printer's letter

of March 9, 2009 pledged to provide trusted information in whatever form is required to meet the President's objectives http://www.gpo.gov/pdfs/news-media/letter_030909.pdf.

In addition, the Office of the Federal Register coordinates with the Office of Science Technology Policy to ensure that the OFR/GPO partnership meets customer expectations. To follow through on our commitment, we are expanding and accelerating the development of FDsys to provide XML-structured content as rendered output. This will give users access to masses of data to reconfigure and redistribute as they wish to meet the specialized needs of their constituencies.

1.1. Purpose

The purpose of this document is to provide an overview of Federal Register XML files and associated schema. The FDsys Bulk Data repository at <http://www.gpo.gov/fdsys/bulkdata/> contains the Federal Register in XML from 2000 to the present. Please see FDsys at www.fdsys.gov for access to the Federal Register in PDF and HTML formats.

1.2. Legal Status & Authenticity of Federal Register files via Data.gov

Q. What is the data set available for the Federal Register in XML?

A. Federal Register files in XML have been converted and simplified from the SGML rendition used for the printed publication. The Federal Register is available in XML starting with the year 2000, when GPO began composing Federal Register material in SGML. OFR/GPO plan to convert the remaining electronic data set for the Federal Register (1994-1999) at a future date.

Q. Are bulk data downloads of XML files offered on FDsys via Data.gov part of the official version of the Federal Register?

A. No, the XML-structured files offered for bulk download are not part of the official on-line format of the Federal Register. While GPO's XML files are based on the original source data submitted by Federal agencies, OFR markup, and GPO typesetting and composition markup in SGML, only the PDF and Text versions of Federal Register content on GPO Access and FDsys have legal status as parts of the official online format of the Federal Register. Additional development will be required before OFR/GPO can specify that XML files are a part of the official online edition of the Federal Register.

Q. Do OFR/GPO plan to include XML files as part of the official format of the Federal Register?

A. Yes. The current set of XML-structured material (minus graphics) is not yet characterized as part of the official online Federal Register format because the underlying data used to create a viewable rendition of the material must be thoroughly scrutinized and tested. The XML-structured files are derived from SGML-tagged data and printing codes, which may produce anomalies in display. For example, complex tabular material in XML files may not display as correctly composed objects equivalent to the tables that appear in the Text and PDF files. Tabular material that displays in an ambiguous or distorted manner could affect the substantive meaning of regulations and other documents.

Our goal is to clean up the XML data and develop associated style sheets to the point that the XML rendition can be characterized as a display format of the official online edition. We are also developing the means to embed graphics in the files, so that an XML version may be deemed both official and complete. The OFR will issue a Federal Register Bulletin to alert users when the XML-structured files are ready to be included as part of the official online edition.

Q. What is the legal basis for making determinations about official status?

A. The Federal Register Act established the Administrative Committee of the Federal Register (Administrative Committee or ACFR) as the regulatory body with authority to determine the format(s) of the official serial publication known as the Federal Register (44 U.S.C. Ch. 15). Under 1 CFR 5.10, the official formats approved by the ACFR include a paper edition, a microfiche edition, and an online edition. OFR and GPO carry out ACFR regulations by developing appropriate means to display Federal Register material in the official formats.

Q. When did the Federal Register first appear online?

A. The official online edition dates to 1994 when Congress authorized an online edition in Public Law 103-40 (the Government Printing Office Electronic Information Enhancement Act of 1993; codified at 44 U.S.C. 4101).

Q. Are Federal Register XML bulk download files digitally signed?

A. No, XML files available for download are not digitally signed. They can be manipulated and enriched to operate in the various applications that users may devise. GPO is evaluating technology that could be used to digitally sign XML files for future official editions posted on FDsys. Adding signed non-PDF files to FDsys would be an enhancement for FDsys users, but would not be used to restrict or adversely affect the XML bulk data downloads available to our customers.

Q. What does the term “digitally signed” mean?

A. Currently, GPO uses digital signature technology on PDF documents to add a visible Seal of Authenticity (a graphic of an eagle) to authenticated and certified documents. The technology allows GPO to secure data integrity, and provide users with assurance that the content is unchanged since it was disseminated by GPO. A signed and certified document also displays a blue ribbon icon to the left of the Seal of Authenticity and in the Signatures tab within Adobe Acrobat or Reader. When users print a document that has been signed and certified by GPO, the Seal of Authenticity will automatically print on the document, but the blue ribbon will not print.

Q. How reliable is the metadata and the underlying tagging in bulk data files?

A. The document markup and metadata found within bulk data files are generally reliable and complete. However, there are variations in this underlying data due to inconsistencies in the composition and typesetting process. As a result, some data-mining applications and user aids may not produce 100 per cent accurate results.

Q. What is the legal status of Federal Register user aids?

A. Federal Register user aids, including, finding aids, indexes, search tools, metadata associations, and tagging schemes are not part of the legal text of the Federal Register. These ancillary features help users explore and extract data, but the official legal text stands on its own. No person should form absolute legal conclusions based on search results, finding aids, metadata associations, extractions of data, and the like. Ultimately, only the official text of the Federal Register may be relied upon as evidence in a court of law.

Q. What is the authenticity of Federal Register bulk data files after they have been downloaded to another site?

A. We cannot vouch for the authenticity of data that is not under OFR/GPO control. OFR and GPO are providing free access to Federal Register data via XML for display in various applications and mash-ups outside the FDsys domain. The OFR/GPO partnership does not endorse third party applications, and does not evaluate how our original legal content is displayed on other sites. Consumers should form their own conclusions as to whether the downloaded data can be relied upon within an application or mash-up. An application may link to the official Federal Register on FDsys to provide users with additional assurance.

Q. Do OFR and GPO assert any control over downstream uses of bulk data?

A. In general, there are no restrictions on re-use of information in Federal Register documents because U.S. Government works are not subject to copyright. OFR and GPO do not restrict downstream uses of Federal Register data, except that independent providers should be aware that only the OFR and GPO are entitled to represent that they are the providers of the official versions of the Federal Register and related Federal Register publications.

Q. How can re-publishers indicate the source of Federal Register data?

A. Re-publishers of Federal Register data may cite FDsys and OFR/GPO as the source of their data, and they are free to characterize the quality of data as it appears on their site. But private sector re-publishers are prohibited from using the seal of the National Archives and Records Administration (NARA) or stylized Federal Register logos identified in NARA regulations (36 CFR part 1200) on their products because that would unlawfully misrepresent the legal status of the material, and could falsely identify private organizations as entities of the Federal Government.

Work Environment at GPO

Question: Does GPO provide staff with information on what constitutes a “hostile work environment”? If yes, how does GPO define a “hostile work environment”? If no, why isn’t that information furnished to staff?

Response: Hostile work environment is a form of harassment. GPO’s policy prohibiting discriminatory harassment is on GPO’s Equal Employment Opportunity (EEO) Intranet site. It

states that harassment becomes unlawful when the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. This policy is provided to all new employees during new employee orientation.

GPO managers and supervisors receive information on harassment and hostile work environment during supervisory training. Additionally, there is a course in the supervisor series entitled "EEO and Discriminatory Harassment" which includes a lesson on "Harassment and Hostile Work Environment."

TUESDAY, FEBRUARY 7, 2012.

CONGRESSIONAL BUDGET OFFICE

WITNESS

DOUGLAS W. ELMENDORF, DIRECTOR

OPENING STATEMENT—CHAIRMAN CRENSHAW

Mr. CRENSHAW. We are going to hear from the Congressional Budget Office.

I want to welcome Dr. Douglas Elmendorf, who is the director of the Congressional Budget Office. Their request this year for the CBO is \$44.6 million. That is \$850,000 more than 2012. We will insert your formal statement into the record. But the floor is yours to give us any opening comments you might like.

OPENING STATEMENT—DR. ELMENDORF

Dr. ELMENDORF. Thank you, Mr. Chairman, Congressman Honda, Congressman Bishop. We appreciate the opportunity to talk about CBO's budget request for 2013.

As you know, our mission is to provide Congress with objective, impartial, nonpartisan analysis of budget and economic issues. About 90 percent of our budget, a little more than that actually, represents compensation for our staff. So the contour of our budget and the contour of our staffing are very closely linked.

Our request, as the chairman said, for 2013 is for \$44.6 million. That is the far right bar on the picture in front of you. In light of the tight budget constraints facing the government, this request represents an increase of only 1.9 percent, or \$850,000, as the chairman said, from the amount provided in 2012. It is an increase of only 1.2 percent, or about \$500,000, from the regular appropriation provided in 2009.

As you know, congressional demand for our estimates and other analysis has been extremely high in the past few years. In particular, the surge in Federal debt and projected deficits has led to ongoing congressional efforts to enact fundamental changes in budget policy, and that has strained our resources in many areas.

We provided a tremendous number of estimates during the debate over appropriations over 2011, that extended through the spring of last year, during the bipartisan negotiations in the spring and summer about larger changes in budget policy that might have been linked to the increase in the debt limit, during the work of the Joint Select Committee on Deficit Reduction in the fall, and during debates on many other possible changes in law. Given the outlook for the budget and the economy, we have no reason to expect that the demand for CBO services will wane in the foreseeable future.

Despite that heavy workload, our funding for this fiscal year 2012 is below the amounts provided in the last few years.

We have reduced expenses. We have significantly curtailed salary increases and sharply cut spending on information technology, data, training, and other items. We have also stopped most hiring of new staff to replace the people who leave.

As I mentioned, our requested funding for 2013 is only slightly more than was provided for this year and a little more than was obligated 4 years ago. To operate the agency at that level of funding would require a combination of very minimal increases in salaries, very limited spending on IT, data, training, other things, and a further reduction in the number of CBO analysts.

Regarding the nonpay parts of our budget, we propose to spend in 2013 about half as much as we spent on average in fiscal years 2009 through 2011. I should note we would not be able to sustain that level of spending beyond 2013 without significantly sacrificing the quality of our analysis. So unless we received a larger increase in funding for the following year, we would implement further cut-backs in CBO staffing.

For 2013, we propose to cut staffing to about 235 analysts, a level we hope to achieve through attrition. If we do not experience enough attrition, we may need to undertake furloughs or layoffs. The reduction in CBO staffing that is already under way, and will continue further under our proposed budget, would have consequences for the analysis we can provide to the Congress.

I want to emphasize all of us at CBO will continue to make every effort to serve you and your colleagues as effectively as we possibly can with whatever resources we are given. But I do not want to hide the fact that fewer analysts will mean fewer estimates, fewer reports on budget and economic policies.

As you know, perhaps from personal experience, we were already unable to analyze many proposals sent to us by Members of Congress, unable to serve committees as quickly as we and they would like, and unable to improve our modeling as much as we should. Further reductions in our staffing would make those problems worse.

Moreover, because losses through attrition will undoubtedly not line up well with the places where we can most afford to lose resources, we may have some particular weak spots in our capabilities during the next few years.

That said, we understand the restraints under which the Appropriations Committee is operating, and we are grateful for the support that you have always given to our work.

Thank you. My colleagues and I are happy to try to answer your questions.

[The prepared statement of Dr. Elmendorf follows:]



**Testimony on
CBO's Appropriation Request for Fiscal Year 2013**

**Douglas W. Elmendorf
Director**

**Before the Subcommittee on Legislative Branch
Committee on Appropriations
U.S. House of Representatives**

February 7, 2012

This document is embargoed until it is delivered at 9:30 a.m. (EST) on Tuesday, February 7, 2012. The contents may not be published, transmitted, or otherwise communicated by any print, broadcast, or electronic media before that time.

Mr. Chairman, Ranking Member Honda, and Members of the Subcommittee, thank you for the opportunity to present the Congressional Budget Office's (CBO's) budget request for fiscal year 2013.

CBO's mission is to provide the Congress with objective, impartial, and nonpartisan analyses of budget and economic issues, including the information and cost estimates needed for the Congressional budget process. In fulfilling that mission, CBO depends on a highly skilled workforce. About 92 percent of CBO's budget represents compensation for the agency's staff; another 5 percent is for information technology (IT) equipment and services; and the remainder is for data, training, office supplies, and other items. As a result, the contours of CBO's budget and the staffing levels of the agency have been and will continue to be closely linked.

CBO's proposed budget for fiscal year 2013 is \$44.6 million. In light of the budget constraints facing the federal government, this request represents an increase of only 1.9 percent (\$850,000) from the \$43.8 million provided to CBO in fiscal year 2012 and an increase of only 1.2 percent (\$555,000) from the regular appropriation of \$44.1 million provided to CBO in fiscal year 2009.

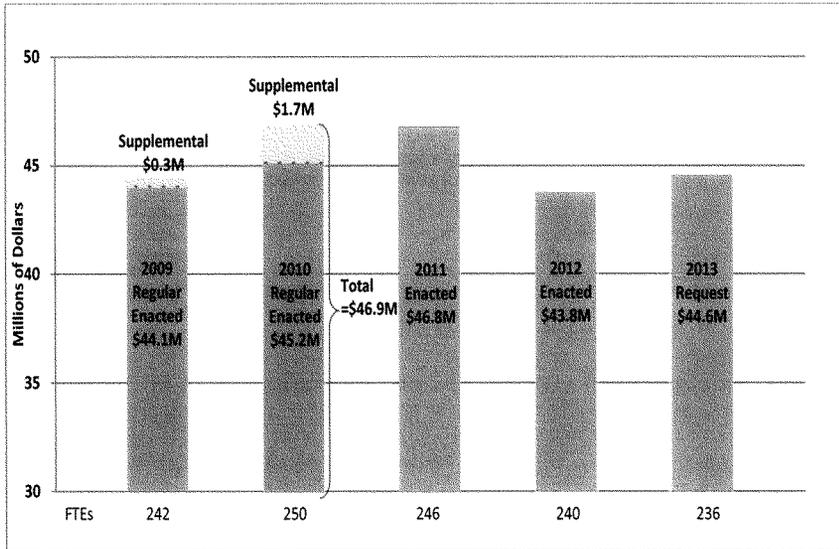
Operating the agency in fiscal year 2013 with only slightly more funding than was provided for this fiscal year and little more than was obligated four years earlier would be possible only through a further reduction in the number of CBO analysts; minimal increases in salaries; and sharp cutbacks in spending on IT, data, training, and other items. Although CBO will continue to make every effort to serve the Congress as effectively as possible, the changes that would be required under the proposed budget would unavoidably diminish the number of estimates and analyses of budget and economic policies that CBO was able to provide.

Funding History

Between fiscal year 2001 and fiscal year 2008, the number of full-time-equivalent positions (FTEs) at CBO averaged 230, and the number varied little from year to year. During that period, CBO's budget rose slowly, on balance, as federal employees received salary increases and the cost of federal benefits increased.

In 2008, CBO became concerned that it did not have sufficient resources to analyze policy changes regarding the delivery and financing of health care that were emerging as a critical issue in the Congress. In addition, the agency was delivering an increasing number of testimonies and formal cost estimates, providing a rapidly growing volume of informal estimates, and engaging in more frequent communications with Hill staff on a wide range of topics, so shifting a significant number of staff positions from other areas to the health area did not seem feasible.

Figure 1.
CBO's Funding and Staffing for Fiscal Years 2009 Through 2013



Accordingly, CBO proposed to the Congress a multiyear plan to boost the size of the agency to nearly 260 FTEs, an increase of a little more than 10 percent. The Congress approved the first leg of that proposed increase in CBO's budget for fiscal year 2009. Analyses of competing health care proposals absorbed a huge share of CBO's resources, and the financial crisis and severe recession led to a jump in Congressional requests for analyses, budget projections, and cost estimates in many other areas. Consequently, the Congress approved a two-year supplemental appropriation for CBO during 2009 and also approved an increase in the agency's regular appropriation for fiscal year 2010. Making use of that additional funding, CBO averaged about 250 FTEs during 2010 (see Figure 1).

Congressional demand for CBO's estimates and other analysis has remained extremely high in the past few years. The enactment of major health care legislation in 2010 has increased, rather than diminished, the number of other proposals for changes in federal health care programs, and it has made CBO's analysis of such proposals much more complex. In addition, the depth and duration of the economic downturn have generated significant demand for analyses of the effects of both enacted and proposed responses to those economic conditions. Moreover, the surge in federal debt and projected deficits has led to ongoing Congressional efforts to enact fundamental changes in budget policy, which have strained CBO's resources in many areas. CBO provided a tremendous number of estimates during the debate over appropriations for fiscal year 2011 that extended into the spring of the year, the bipartisan negotiations last spring and summer about larger changes in policies linked to an increase in the debt limit, the work of the Joint Select Committee on Deficit

Reduction last fall, and the continuing debate about extending various provisions of law through the rest of 2012.

Despite that heavy workload, CBO's appropriation for fiscal year 2011 was below the total funding available to the agency in 2010, and its funding for fiscal year 2012 is below the amount provided in 2011. To reduce expenses in fiscal year 2012, CBO has significantly curtailed salary increases and sharply cut spending on IT, data, training, and other items. Given the large share of the agency's budget devoted to compensation, however, those changes do not, by themselves, reduce spending sufficiently. Therefore, CBO has also stopped most hiring of new staff to replace those who leave, and attrition has reduced the number of FTEs at the agency to about 242 currently; by the end of this fiscal year, CBO aims to be operating with 237 FTEs (generating an average for this year of 240 FTEs).

Some Details of CBO's Fiscal Year 2013 Budget Request

CBO expects that Congressional demand for the agency's estimates and other analyses will remain high in fiscal year 2013. The agency's mission of providing nonpartisan budgetary and economic information to the Congress will remain the same. Fulfilling that mission will require providing reports on the budget and economic outlook, an analysis of the President's budget, long-term budget projections, options for reducing budget deficits, cost estimates, mandate statements, and scorekeeping tabulations. Fulfilling the agency's mission will also require providing in-depth analyses of a broad range of program and policy issues requested by committees.

The specific issues that the Congress will be addressing in 2013 are difficult to predict, but CBO's analyses are likely to include work on health care, policies for increasing economic growth and employment, energy policy, tax reform, reform of entitlement programs, infrastructure, defense policy, the government's role in financial markets, and a wide variety of budget policy options. Altogether, CBO anticipates a workload of:

- Roughly 525 formal cost estimates, most of which will include not only estimates of federal costs but also assessments of the cost of mandates imposed on state, local, and tribal governments or the private sector;
- Thousands of preliminary, informal cost estimates, the demand for which is growing as committees seek to have a clearer picture of the budgetary impact of proposals and variants of proposals before they formally consider legislation;
- Roughly 200 scorekeeping tabulations, including status reports for discretionary appropriations, estimates for individual appropriation acts, and compilations of direct spending and revenue effects for budget enforcement purposes; and

- About 130 analytical reports, testimonies, and other publications, which are generally required by law or prepared in response to requests from the Chairmen and Ranking Members of key committees.

The demand for CBO's analyses currently exceeds, by a substantial margin, what the agency can produce with its current staff. Unfortunately, CBO is unable to analyze many legislative proposals that are sent by Members of Congress, unable to promptly complete in-depth analyses of many issues that are requested by committees, and unable to improve its modeling as much as would be desirable to capture the many channels through which proposals can affect the federal budget, the economy, and the well-being of citizens. Further reductions in the size of CBO's staff would make those problems worse.

Nonetheless, recognizing the stringency of the federal budget situation, CBO proposes to cut back to about 235 FTEs by the end of fiscal year 2013, about 6 percent fewer than the average staffing in 2010. That cut (which would give CBO an average for the year of 236 FTEs) would have several key consequences:

- First, a reduction to that staffing level by next year could probably be achieved by attrition, but that is not certain. If CBO does not experience sufficient attrition, then reaching that staffing level could require furloughs or layoffs—this year, next year, or both.
- Second, to have 235 FTEs by the end of next year would mean that most of the increase in CBO staffing set in motion in 2008 would be reversed. Yet the increase in demands on CBO related to analyzing health care costs and the burgeoning federal debt has not been reversed.
- Third, because losses through attrition will undoubtedly not line up well with the places where the agency can most afford to lose resources, CBO may have some noticeable weak spots in its capabilities during the next few years.

In addition, CBO is not planning any across-the-board increase in salaries for employees in calendar year 2013, matching what it did in 2011 and is doing in 2012. The agency is also reducing further the size of performance-based pay raises it gives to employees who are not eligible for across-the-board increases.

CBO also proposes stark cuts in nonpay areas of its budget in fiscal year 2013. Relative to CBO's average outlays in fiscal years 2009 through 2011, IT spending next year would be about 40 percent less, spending on training would be one-third smaller, purchases of data would be reduced by more than 15 percent, and spending for other purposes would be cut significantly as well.

CBO's request supports the following:

- \$31.0 million for pay of personnel compensation;

- \$10.3 million for personnel benefits; and
- \$3.3 million for IT, data, services, equipment, training, and other items.

The severe limits on salary increases and spending in the nonpay areas of the budget that CBO is proposing for fiscal year 2013 cannot be sustained through fiscal year 2014 without significantly sacrificing the quality of the CBO staff and the tools with which they work. Consequently, unless a larger increase in funding is made available to CBO in fiscal year 2014, the agency expects that it will implement further cutbacks in staffing that year and be forced to limit further the support that it provides to the Congress.

In closing, I would like to thank the Committee for the support it has provided CBO, enabling the agency to carry out its responsibilities to provide budgetary and economic information to the Congress.

ZERO BASE BUDGETING

Mr. CRENSHAW. Thank you very much. I appreciate you outlining some of the things that you all have worked on.

One of the things that I have been asking all the agencies is kind of what you already alluded to, how you respond when you are going to get less than last year. You have got to figure out how you are going to deal with that, and I think you have touched on that.

Our directive, in terms of writing a new budget from a zero base, you have talked a little bit about that. Maybe you could elaborate on that from the standpoint of whether that is a worthwhile exercise. When you reviewed things and build from the ground up, anything that you came across in terms of efficiencies or effectiveness that you saw as you went through that drill, which I think we all believe is a good way to create budgets? Talk just briefly about that.

Dr. ELMENDORF. Yes, I will.

Again, as you know, 92 percent of our budget goes to compensation, about 5 percent to information technology, and the remaining few percent to training and other items. So the particular scrubbing that we did was on the 8 percent of our budget for nonpay items, and I will come back to staffing in a moment.

We went through every line of the money we spent in the past, and we looked for the areas we thought we could most give something up with the least effect on the analysis we can give to you. I do not know if we found things that we believe were purely waste, but we did—I mean, we went down to how many newspapers are delivered to this office and can they share with the office next to them? We need to keep up with what is happening in the news, so we cannot not do that at all, but we went right down to the level of having the senior managers figure out how to economize on that sort of level. So we really scrubbed everything that we could, and I think some of those things we can give up for a while.

Other things we can only give up for a short period of time. So we are not buying computers. One can do that for a little while and you are okay, but eventually the advance in technology means that you are not okay anymore, and by 2014 we will have to go back to doing some real investment in the information technology that we have.

On data that we buy, much of the data we can obtain for free from the government, but other data we have to buy. If you do not have the latest year's data, you are not too far off. If you do not have the 2 years' latest data, you are a little further off. If you do not have 3 years' latest data, then you run the risk of really being astray. So, again, we can economize for a period of time but not indefinitely.

On the staffing side, which is the overwhelming share of where we spend our money, we just need to make sure that we are prioritizing, with the help of Members and the committees, prioritizing the work that most needs to get done. But, as you know, the demand is much greater than supply all the time. So the things that are not getting done were valued by somebody but not quite as much as the things that we are going to continue to do.

PRIORITIZING REPORTS

Mr. CRENSHAW. Do you have to make that judgment? In terms of priorities, some reports are more worthwhile than others. Is that something you have to sort through? For instance, the scorekeeping unit, they do a great job. Maybe tell us, is that the bulk of the work that is done? Or those seem to be, obviously, very important reports. How does that mix, scorekeeping versus overall reports, that you are asked to do, and how do you go about deciding what you are going to be able to do and what not?

Dr. ELMENDORF. So we want to do the things that are most useful to you and your colleagues. So we look to the leadership, the Democratic and Republican side in the House and Senate, we look to the chairs and ranking members of the key committees to guide what we do. I think that we are not a think tank. We are not doing research for its own sake. I mean, all of the longer reports that we do even are designed to be very directly relevant to the decisions of the Congress.

We released an analysis last week of Federal compensation relative to private-sector compensation. That was a very involved effort, took a lot of people's time at CBO, but it was a request from a Member of Congress, and it is, I think, directly relevant to decisions Congress has to make.

We have a large share of our folks in the divisions apart from the budget analysis division that does the cost estimates that you are thinking of and the scorekeeping work.

In the program divisions, a large share of those people are directly working on our economic forecasts, on our revenue projections, on helping do estimates of the effects of changes in health provisions, and so on.

So we do not have slack really at all anyway, and we are always turning down demands that we do things. And, I understand why people want our estimates. But we are always in the position of saying, well, we can do three things from your list, not five or not ten. And, we just try to keep up as much as we can with the most crucial things.

Mr. CRENSHAW. Thank you.

Mr. Honda.

DYNAMIC SCORING

Mr. HONDA. Thank you.

Let me just say from the other committee that I sit on, I appreciate your stringent effort to stay objective and nonpartisan. I know that some Members always couch questions, and if I do that, please realign my thinking.

So the House just recently passed H.R. 3582, which requires the Congressional Budget Office to provide macroeconomic impact analysis for bills that are estimated to have a large budgetary effect. The bill would also require the CBO to provide supplemental budget projections that assume certain tax policies are extended. I did not vote for that bill, but my colleagues who support the adding dynamic of scoring to your already loaded portfolio should know how you are going to conduct these mandates with shrinking appropriations. So if this bill were to become law, how much would CBO

need in fiscal year 2013 to conduct dynamic scoring analysis for bills that are called for in 3582?

And then what is the impact to other CBO statutory duties and the average time it takes to do these kinds of formal cost estimates for these bills under the 6.4 percent cuts that you have already experienced? I just want to get a sense of that.

Dr. ELMENDORF. Well, as you know, it is difficult to manage downsizing, and it is difficult to manage new responsibilities. It is especially difficult to manage both of those together.

We do a fair bit of analysis now of the macroeconomic effects of changes in fiscal policies, both tax policies and spending policies. We publish those in a range of different reports. You see some of that, actually, in the economic and budget outlook we just released. What this legislation that you are referring to would do would require that analysis for a broader set of legislation.

We have the models to do some of that work already. But we would need to build more, and we would need to use those models, to apply them in many more circumstances than we do now. And our estimate—the report was actually in our cost estimate for this legislation—was that to do the extra work would require between two and three extra staff people, which amounts to about \$300,000 to \$500,000 per year.

If this requirement were enacted with no increase in resources to pay for it, then we would need to find something else not to do. I do not know really what that is. Our macroeconomic analysis division really has two pieces. One piece does the economic forecasts that are of interest to all of you I think and is also the foundation for the budget projections. The other part does analysis of the macroeconomic effects of fiscal policy. Both those pieces are working flat out. Somebody just announced they are leaving from this division. We are not replacing that person.

I do not really know what we would give up, but we would, again, try to prioritize the needs of the Congress.

Mr. HONDA. So doing that, it still adds even more pressure to your existing staff. Since it is mandated, if it is mandated, then it just falls into the categories of sort of what us policymakers call unfunded mandates.

Dr. ELMENDORF. Yes.

SEQUESTRATION IMPACT

Mr. HONDA. So given that plus the sequestration that is going to happen in 2013, how is that going to impact your office? And how do you see the impact in other offices?

Dr. ELMENDORF. Well, if the sequestration takes effect, that would be very damaging for our organization. That would be a much lower level of funding than we are requesting for fiscal year 2013. The cutbacks on the nondefense appropriations through sequestration we estimate would be about 8 to 9 percent.

Mr. HONDA. Right.

Dr. ELMENDORF. That is more than the total amount of our budget that is not being used for compensation of our staff. So the cutbacks in staffing that we would need to undertake to meet an 8 or 9 percent cut in funding would be very drastic. We would have to rely, I think, on furloughs or layoffs.

You know, an 8.5 percent cut in our budget would be about \$3.5 million. That is about 20 full-time equivalent staff people over the course of a year. If this news came upon us in January, we might have two-thirds of a year in which to respond. That would be a reduction of 30 FTEs for the remaining two-thirds of fiscal year 2013. That is way beyond what would arise through attrition and would require, as I said, much more damaging cutbacks that would not only hinder our ability to serve Congress in fiscal year 2013 and 2014, but I think over some period of time. Because we would end up having to push out people with a tremendous amount of expertise and experience with the work that we do.

Mr. HONDA. So approaching that point of diminishing returns, that causes some internal damage that our government and our functions would be sorely affected.

Dr. ELMENDORF. It would certainly damage what we can do. You know, we leave the policy decisions to you and your colleagues, Congressman. Our job is to try to explain as clearly as we can the consequences of alternative policies. And I am trying to do that here today, the same way that I tried to do that in the testimony to the House Budget Committee last week. But the decisions and the trade-offs are yours, not ours, to make.

Mr. HONDA. Sort of reminds me, Mr. Chairman, of ancient emperors in the past who used to have advisers. The advisers were required to give the exact response even at the cost of their own heads. So it sounds like, you know, we may have to really think about what we are doing as soon as possible.

Thank you, Mr. Chairman.

Mr. CRENSHAW. We have not come that far, have we?

Mr. Bishop.

MORE ON DYNAMIC SCORING

Mr. BISHOP. Thank you very much; and let me again welcome you, Dr. Elmendorf.

I want to follow up on Mr. Honda's line of questioning from the different perspective of quality assurance.

Obviously, the budget cuts and the reductions in staff will have consequences on our policy. And one of the impacts has to do with dynamic scoring.

I think one of your predecessors was very, very critical of the concept of dynamic scoring. I just want to ask you in terms of your organization, which has long been held in very, very high esteem for being objective, for making valid and reliable estimates that limit subjectivity.

Namely, if you are instructed by Congress to place more emphasis on dynamic scoring, how will that impact the validity and the reliability of the opinions that you are able to give to us, which will, of course, be instructive as we prepare and implement policy?

Dr. ELMENDORF. Let me offer a few thoughts on that, Congressman.

The first is that, as you know, in our regular spending estimates and in the estimates of revenue policies undertaken by our colleagues at the Joint Committee on Taxation, we already incorporate a very wide range of behavioral responses to the policy being considered. What is not incorporated in our standard esti-

mates or in the Joint Tax Committee staff standard estimates are changes in behavior that would affect the size of the overall economy, like changes in work effort or savings in response to changes in tax rates.

Nonetheless, we do analysis, as the Joint Tax Committee staff does, of those kinds of macroeconomic effects of changes in legislation. We did that for the Recovery Act in 2009 as it was being considered. We did that in the fall of 2010 in testimony to the Senate Budget Committee about the effects of different ways of extending the tax provisions that were expiring then. We do that in the long-term budget outlook now. We did that in the budget and economic outlook last week. So we do that kind of analysis, and we have gone to some trouble to build up the staff and modeling to do that as supplementary information to the basic cost estimates.

And I think for important pieces of legislation that are moving taxes or spending in important degrees, that it is a natural question for the Congress to ask about the macroeconomic effects. I think building those sorts of responses into our standard estimates would be completely infeasible.

Mr. BISHOP. Pardon me?

Dr. ELMENDORF. To build it into our standard estimates, those are the regular estimates, the 400 to 500 we do every year, would be completely infeasible and would not serve you well. Because in almost every piece of legislation there are not significant macroeconomic effects. The legislation the House voted on asks us to do that kind of analysis of the macroeconomic effects for particular pieces of legislation, those that have large changes in spending or taxes. That is a much narrower set of legislation than all of the legislation that we analyze. And the legislation asks us to provide that analysis separately, not built into the regular estimates. So, I think that is feasible for us to do and may be interesting information to some Members of Congress.

Our concerns about the legislation are mostly around the resources it would take for us to do that extra work, around the timetable in the legislation. We do our analysis of the President's budget every year. We do a sort of straight budget read without those extra effects, and then we follow it up with a macroeconomic analysis. That comes out weeks later, and there is a concerted effort by many people to get that done in that period of time.

The timetable I think that is suggested in this legislation would require us to do those macroeconomic estimates more or less on top of the regular budget estimates. I do not think that will generally be feasible. So there are I think issues about our ability to do the particular sort of work on the timetable in this legislation with the resources we have. But, conceptually, we are set up and do analyses of those macroeconomic effects in cases where we have been asked by a committee to do that.

Mr. BISHOP. Going back to last Congress with the Affordable Care Act, you declined to attach a dollar value to some of those behavioral reactions that were projected as a result of certain policies.

Dr. ELMENDORF. Well, so we made our—took our best shot at putting down numbers for the provisions of the legislation for that law and for all the legislation that we work on. But the world is

a very complicated place, and we do not have every connection between Federal policy and economic outcomes or budget outcomes modeled.

We have a very large project under way right now looking at the effects of changes in tobacco policy on people's health and thus on Federal health care costs. That is a project that has gone on some time now, took a great deal of effort.

I think it is very important for us to do that, to give you and your colleagues a sense about some of these channels on which policy can matter that are more indirect and are not usually modeled. But we cannot do that for every aspect of every proposal all the time. But, we are always trying to improve our models and to capture as much as we can.

Mr. BISHOP. But the bottom line was you felt that you would not be able to give an accurate judgment based upon the information available to that particular question, and that would have been the essence of dynamic scoring on that particular issue, would it not?

Dr. ELMENDORF. One can view that as a version of dynamic scoring. I think people use those words in different ways, and I tried just to explain exactly what I mean and not use those labels. But, yes, there are limitations on what we can model. And it is true in a number of areas in health care, which is a particularly complicated part of the economy, an area where government policy is particularly complicated. So there certainly were criticisms, as you mentioned, of our inability to model certain features of the Affordable Care Act in a way that some people thought they should be modeled.

Last week, when I testified to the Budget Committee, Chairman Ryan was I think legitimately unhappy as well because there were aspects of proposals he has brought to us about the effects of a premium support-type system on competition over time and dynamics of prices in the health care system that we also do not have the models yet to deal with. And we are always trying, when we have a little time away from this week's legislation and this month's legislation, to build the models that you all need us to have for next year's legislation; and that tension between serving you now, but also laying the groundwork to serve you effectively later is one that we feel every day and that the other managers and I talk about constantly.

Mr. BISHOP. Final question. The question that many people are asking is, if we move to place more emphasis on dynamic scoring, does it really create a flaw in the accuracy of the predictions that you make and give options to the policymakers to be able to choose whatever is most desirable as opposed to the most objective answer?

Dr. ELMENDORF. Well, so—

Mr. BISHOP. In other words, it would give me another option that I could say, well, this was scored at thus and such, and so it will be good. But it is based on the dynamic scoring concept, as opposed to—I do not know what you call the other one. Say the more objective.

Mr. CRENSHAW. Static.

Dr. ELMENDORF. That is why I do not use those words.

Again, the legislation that the House is considering would have this analysis be supplemental to the regular estimates that we do. It would have no effect on those estimates.

The supplemental estimates that we would provide would be the same sort that we provide now for the economic effects of changes in policy. We usually provide those as a range, and we offer them as a range to make sure everybody understands there is a lot of uncertainty about those effects. And, we will often talk in things we do about how the lower end of the range reflects certain assumptions about people's responses to policy and the higher end of the range reflects other assumptions. I promise you those ranges will be our nonpartisan, objective, impartial judgment of the relevant range.

Now, there is a risk whenever we present ranges that people who want certain numbers to be small pick the lower end and people who want those numbers to be big pick the higher end and who wants things big or small tends to change over time. And, I cannot control the way those numbers are used. But the ranges that we would provide, as the ranges we provide now, will be completely objective and impartial. Because that is what we do.

Mr. BISHOP. So all the difference is it would just cost you more to do it, or you have to make a decision to do less of what you now do.

Dr. ELMENDORF. Yes, that is it, Congressman.

Mr. BISHOP. If we mandate it.

Mr. CRENSHAW. And I think there is a real misunderstanding among a lot of people about the difference between static and dynamic scoring. And I think you have pointed that out, that there are very few policy decisions that really move the entire economy that would be on the far end of the dynamic scoring, as opposed to a lot of little things we do, put a tax on this, that does not really change the world. But I think there is a misunderstanding sometimes that everything you do there is some dynamic implication, which is probably not the case. And thank you for making that point.

WHERE TO USE DYNAMIC SCORING

Mr. HONDA. Just my closing comment would be, given the bill, my sense is the bill sort of limits where you would use dynamic scoring. And if you limit in the bill what you can do and not take the full picture, then the outcome is not going to be as accurate.

And, having said that, is the CBO in their objective realm of work, do you look at that and say—not volunteering information but saying, but if you did this, if you looked at the entire picture instead of extending only a tax cut or dynamic scoring those, look at the whole tax cut and looking at its full impact in the future, do you volunteer those kinds of information or would you make comments towards those or—like be careful what you ask for because sometimes it is not complete?

Dr. ELMENDORF. We work very hard to ensure we are providing a complete answer to questions we are asked. When we have done analysis of the effects of changes in policy on the economy, we have looked at the effects of changes on both the spending side and the tax side, partly because the gap between those changes matters a

lot. The amount of extra deficit or reduction in deficit has a very important effect on the economy. So we need to keep in mind both the spending and tax sides. For some aspects on the spending side it is harder to do estimates, because there is a fairly large amount of economic literature about the effects of changes in tax rates on people's behavior. Still a lot of uncertainty, some different views, a lot we do not know. But a fair amount of evidence in some ways.

On the spending side, in some cases there is less evidence. It is also the case that it can be less obvious what a change in spending you legislate will do ultimately in the world. So if you increase or decrease spending for highways, to take the current example, that could have more or less effect on the economy depending on which highways are built and are not built.

So the specificity of the legislation, but then also the decision that will ultimately be made not by you but by the State governments that are taking the funds or something else can matter to the economic effects.

So sometimes we are less able to do estimates for some pieces than others. But you look at what we do for the analysis of the President's budget, what we did for the Recovery Act, what we have done for alternative ways to boost output in employment, we try to look in as parallel ways as we can at both spending and revenues.

Mr. HONDA. Thank you.

Mr. BISHOP. I have got one more question.

Mr. CRENSHAW. Sure.

BIENNIAL BUDGET PROCESS

Mr. BISHOP. As an appropriator, I very much believe that we have an obligation to hold agencies' feet to the fire to make sure that they use resources as cost efficiently and effectively as possible.

Some have suggested that if we went to a biennial budget process that it might be better for us in terms of our oversight. So do you believe that biennial budgeting would strengthen or weaken our oversight capacity for the budget process? And how would the impact of utilization of resources, how would that impact the legislative branch? More or less resources needed? Or do you think that it would matter, have any consequences at all?

Dr. ELMENDORF. From the parochial perspective of somebody running a very small agency, having a clearer sense of what our funding will be in the future would be tremendously beneficial. To the extent to which biennial budgeting gave us a picture of what our budget would be a little further out, that would help us a lot in managing what we do.

Whether it gives you and your colleagues in general more or less oversight I think is a hard question, and I do not have a good answer to that. I think it depends—you know, I think you and your staffs provide a good deal of scrutiny of the work that we are doing in managing the funds you give us now. I presume that level of scrutiny would persist whatever frequency you set for budgets.

I think people sometimes say that if you spent less time in the appropriations process then you would redirect your energies to something else, of an oversight nature perhaps. It is harder for me

to judge how you and your folks would use their time differently. I do not think, of course, it changes the fundamental choices that you face. You are trying to address budget problems that are looking out not just a year or 2 years but 3 and 5 and 10 and so on. And whatever frequency you revisit these decisions, the hard choices will still be there, of course.

Mr. BISHOP. Would it restrict or give us more flexibility to go to the 2-year budget process? Would we be able to respond to exigencies quicker or would it delay us? Would we be locked in or do we need to have the flexibility that we now have doing it on an annual basis?

Dr. ELMENDORF. I think you are right to say that the annual appropriations give you greater flexibility in that way. Of course, there are supplemental appropriations that the Congress can give.

Mr. BISHOP. That we are trying to get away from.

Dr. ELMENDORF. Yes, I am just noting you do have tools that you can use. But there may be some trade-off between the sort of predictability of the funding from an agency's point of view and your ability to respond to true changes in their needs. I think that is right.

CLOSING REMARKS—CHAIRMAN CRENSHAW

Mr. CRENSHAW. Thank you for your time today. Thank you for your testimony. Thank you for the work that you do. We all appreciate very much the difficult situation that we are all in from a financial standpoint; and for you to continue to do the quality work that you are doing under these kind of restraints, we really appreciate that.

Dr. ELMENDORF. Thank you, Mr. Chairman.

Mr. CRENSHAW. We will stand in recess until tomorrow at 10 a.m., when we will hear from the Capitol Police.

[Questions submitted for the record by Chairman Crenshaw follow:]

CHAIRMAN CRENSHAW**Congressional Budget Office****FOREIGN NATIONALS**

You are asking for language that allows CBO to hire foreign nationals holding non-immigrant visas. Explain why this is needed and without this language how will your operations be affected?

About 35 percent of CBO employees are Ph.D.-level economists. The market for such economists is extremely competitive. Of the approximately 1,000 Ph.D. economists who graduate in the United States each year, the majority are foreign nationals. Because current law bars the hiring of foreign nationals with nonimmigrant visas, CBO generally can only consider for employment about 40 percent of the pool of recently graduated Ph.D.-level economists.

Moreover, for many of the very specialized fields of economics, such as computational economics (which includes creating and solving cutting edge models of the macroeconomy), financial economics (which includes analyzing and projecting interest rates and monetary policy), and public finance economics (which includes having a deep understanding of behavioral responses to fiscal policy), the pool of candidates is even smaller. This makes it difficult for CBO to find the skilled economists that the agency needs in these key areas to be able to produce the complex, high-quality analysis that the Congress requires as it addresses the nation's economic and fiscal challenges.

This provision would authorize CBO to hire into positions that are difficult to fill foreign nationals who have special skills and hold nonimmigrant visas.

CBO and other federal agencies previously had such authority. For many decades, annual appropriation acts have limited federal agencies' ability to hire foreign workers, but prior to 2010, the limitation did not apply to nationals of the dozens of countries that are allied with the United States in current defense efforts. (See, for example, section 704 of Div. D of the Omnibus Appropriations Act, 2009 [Public Law 111-8]). Consequently, CBO was able to hire nationals from a wide variety of countries.

The Congress changed the limitation with the Consolidated Appropriations Act, 2010 (Public Law 111-117). The new limitation permits CBO to hire foreign nationals who are approved for permanent residency, but it prevents CBO from hiring foreign nationals with nonimmigrant visas (for example, H-1B or E-3). Our experience has been that recent Ph.D. graduates can obtain nonimmigrant visas, but very few have been approved for permanent residency. Because so many of the Ph.D.-level economists graduating each year in the United States are in the former category, it is difficult for CBO to recruit and hire economists with the necessary skills and ability from the limited pool available under current law.

VOLUNTARY SERVICES

You are also asking for the Director to accept voluntary services. Explain the need for this language?

This provision would authorize CBO to accept the services of student volunteers on the same basis as executive branch agencies. It is similar in effect to the authority granted to the Architect of the Capitol by section 1303 of the Legislative Branch Appropriations Act, 2010.

CBO currently has the ability to accept volunteer services. This provision would simply authorize CBO to accept the services of student volunteers on the same basis as executive branch agencies and most other legislative branch agencies. With this provision, CBO could provide its interns with transit subsidy benefits and to cover them in the event of injury at work. We estimate that, at most, this would cost the agency \$4,000 a year.

RANKING MEMBER HONDA**Congressional Budget Office****Federal Workforce Report**

1. There has been a lot of interest in CBO's recent report on Federal workers compensation.
 - How did CBO define comparable workers? For example, all Members have Chiefs of Staff who manage Member office operations. How would the report classify a comparable job or worker for a Chief of Staff in the private sector?

CBO did not try to match specific jobs in the federal government with specific positions in the private sector. Rather, CBO compared the compensation of federal and private-sector workers based on a number of factors that can be readily observed and measured—specifically, education, occupation (in broad categories), years of work experience, geographic location, size of employer, and certain demographic characteristics. Even among workers with similar observable characteristics, however, employees of the federal government and in the private sector may differ in other traits, such as motivation or effort, that are not easy to measure but that can matter a great deal for individuals' compensation.

Information about the characteristics that CBO used to compare individuals is drawn from the Current Population Survey—a survey of households, conducted by the Census Bureau for the Bureau of Labor Statistics, which contains a large amount of information about their attributes and earnings. Individuals who respond to that survey identify themselves as being in a particular occupation. In the results that CBO reported, the variable for occupation was divided into 24 categories (such as management, administrative support, construction, or sales). The results were not very

sensitive to alternative measures of the occupation variable that used categories that were more or less detailed.

Even within groups of workers who have similar characteristics, including occupation, the average differences in compensation between federal and private-sector employees do not indicate whether particular federal employees or federal employees in a particular job would receive more or less compensation in the private sector.

- Also please compare the CBO report to others, such as the Bureau of Labor Statistics report which showed that Federal workers make 26% less than their private sector counterparts? What is the difference in methodology that would cause such a difference in the results?

The findings of CBO's analysis vary from the results of other recent studies of public- and private-sector wages. Some recent studies found that federal wages substantially exceeded those paid in the private sector.¹ Those studies found larger differences between federal and private sector pay than did CBO because the other studies used a different measure of wages. However, that measure overstates the differences between the cost of employing federal workers and similar private-sector workers because the dispersion of wages (the range from low to high wages) differs between those groups.

In contrast, other research that has compared the average pay of federal and private-sector workers who have similar jobs found that the average salary for federal employees is much lower than the average for private-sector workers in comparable jobs.² However, by focusing the comparisons on specific, detailed occupations, that research may have ended up

¹ See Andrew Biggs and Jason Richwine, *Comparing Federal and Private Sector Compensation*, Economic Policy Working Paper 2011-02 (Washington, D.C.: American Enterprise Institute, June 2011); and James Sherk, *Inflated Federal Pay: How Americans Are Overtaxed to Overpay the Civil Service*, Working Paper CDA 10-05 (Washington, D.C.: Heritage Foundation Center for Data Analysis, July 2010).

² Federal Salary Council, *Level of Comparability Payments for January 2013* (November 22, 2011).

comparing federal workers with private-sector workers who have more experience.³

- Was this report done as part of CBO's statutory duties? If not, how does CBO decide when to issue special reports such as the Federal workforce report?

CBO's study was prepared at the request of Senator Sessions, the Ranking Member of the Senate Budget Committee. According to the Congressional Budget Act, CBO's highest priority is to provide information and analysis requested by the budget committees. (In addition to that formal request, CBO received numerous informal inquiries from other Members of Congress about the compensation of federal workers and about the results of other studies on that topic.)

³ For additional information about those different approaches and a summary of the results of other research on this topic, see Justin Falk, *Comparing Wages in the Federal Government and the Private Sector*, Congressional Budget Office Working Paper 2012-3 (January 2012), section II.

WEDNESDAY, FEBRUARY 8, 2012.

U.S. CAPITOL POLICE

WITNESS

PHILLIP D. MORSE, SR., CHIEF OF POLICE

STATEMENT OF CHAIRMAN ANDER CRENSHAW

Mr. CRENSHAW. The committee will come to order. Today we are going to hear testimony on the fiscal year 2013 budget request for the United States Capitol Police.

I want to welcome Chief Phil Morse back, he is the Chief of the Capitol Police; Mr. Richard Braddock, who is the Chief Administrative Officer; and then I want to congratulate and welcome the new Assistant Chief, Tom Reynolds.

Mr. REYNOLDS. Thank you, sir.

Mr. CRENSHAW. Glad you are here.

Chief, I want to thank you personally and publicly for all the work that you and your staff do to remain diligent, protect not only the Members of Congress but all the staff members and the millions of people that come to the Capitol Complex every year. So we thank you for that.

Chief MORSE. Thank you.

Mr. CRENSHAW. This request that they are making today is for \$374 million. That is an increase of about \$33.6 million, a little under 10 percent of an increase over fiscal year 2012. Things are still pretty tough financially. We are still \$15 trillion in debt, and we are making progress. But we thank you for what you are doing to try to work with us. We are all sharing in this pain that we are going through.

Mr. Honda, welcome to you, and I wanted to see if you had any opening statement that you would like to make.

Mr. HONDA. I will pass.

Mr. CRENSHAW. Then, Chief, the floor is yours. We will include your formal statement in the record.

STATEMENT OF CHIEF PHILLIP D. MORSE

Chief MORSE. Okay.

Thank you, Mr. Chairman, Ranking Member Honda, and members of the committee. I am honored to be here today.

I appreciate the opportunity to present the United States Capitol Police budget request for 2013. I am joined here today by Assistant Chief Tom Reynolds, who was recently promoted, as you stated, and is leading our operational element of the police department.

And to my left is Mr. Richard Braddock, our Chief Administrative Officer.

And also with me and sitting behind me are some of the members of my executive management team.

First, I would like to thank the Committee for sustained and unwavering support of the men and women of the Capitol Police. You and your staffs have continued to generously support both our mission as well as our personnel. The security and protection of this great institution is not just our job, but we consider it a sacred duty and a privilege to serve you, the congressional staff, and millions of visitors from around each corner of the world who come to the United States Capitol Complex every year.

Due in large part to your support and that of the Capitol Police Board, the department continues to successfully execute our mission with a strong operational presence and under established business practices, controls, and efficiencies.

Specifically, I would like to express our appreciation to the Committee and Congress for providing the necessary salaries and general expenses funding for our 2012 budget to support our personnel and operations, while absorbing several activities within our base funding, such as the conventions and pre-Presidential inauguration planning.

I would like to emphasize that our management team and I are currently aware of the economic situation our Nation continues to face. I understand the responsibility I have to submit a budget request that is not only accurate, but one that is reasonable and based on only critical requirements necessary to mitigate and address threats and risks.

Our 2013 budget request provides for those critical missions and mission support requirements necessary for the department to address the security of the Congress so that it may conduct its constitutional responsibilities in an open and safe manner, without disruption from crime or terrorism.

To do so, the department utilized our Force Development Process, which develops our budget based on analysis of threats and risks while involving multiple levels of the organization in the process to include coordination and the vetting of our budget with the Capitol Police Board. Our mission-focused request is grounded in the Capitol Police strategic goals that describe our mission and frame our budget planning. It is assessing the threat to the Capitol community; taking proactive measures to mitigate the threat, so as to prevent disruption to the legislative process; responding in the event of a disruption so that Congress can continue to operate; and supporting the Capitol Police mission through constructive internal business processes and controls that foster an efficient mission delivery.

This budget is strong in support of those goals, with modest increases in initiatives to address the identified risks and threats, yet it is flexible enough to achieve and maintain solid mission-critical results with efficient use of the resources provided to our department.

The proposed 2013 budget contains a base budget that will address and mitigate identified security challenges that may potentially affect the safety of the Capitol Complex and our ability to keep up with the changing security environment and threat level.

In addition, it contains requests for a few new initiatives that provide additional security for the Capitol.

Operationally, so far this year, the department has screened nearly 3 million visitors, effected over 200 arrests, and conducted over 35,000 K-9 sweeps, and screened nearly 8,300 vehicles. In fiscal year 2011, the department screened over 10 million visitors, effected over 900 arrests, and conducted over 160,000 K-9 sweeps. Further, we continue our work to close audit recommendations and to address our material weaknesses from prior audits, and are working closely with our Inspector General to address the issues which have arisen and by providing the evidence necessary to close those findings.

In particular, I am pleased to report that we received an unqualified, or clean, opinion on our fiscal year 2011 financial statements. I am also pleased to announce that the Department received its fourth accreditation through the Commission on Accreditation for Law Enforcement Agencies. The commission sets the standard for local, State, and Federal law enforcement agencies across the country. But not only did we achieve accreditation, but we were awarded an accreditation with excellence. Excellence is the highest honor given to law enforcement agencies, and it is very rare. With over 360-plus standards to follow, and with proof of compliance, we did not have one single noncompliance issue.

So I want to thank our director of Office of Policy Systems, Director Jan Jones, for her leadership, and two officers, Emanuel Warren, our accreditation manager, and Officer Jillian Jeffers, for their outstanding job. As I mentioned in the beginning of my testimony, we are well aware, and we understand the economic climate that affects our country, the Legislative Branch, and the entire Federal Government. And I want to assure you that the Capitol Police will successfully adapt our resources and continue to safeguard the congressional community with the resources that we have available.

I appreciate the opportunity to appear before you today, and I would be happy to answer any questions that you may have.

[The prepared statement of Chief Morse follows:]

**Testimony of
Phillip D. Morse, Sr.
Chief of Police, United States Capitol Police
before the United States House of Representatives
Committee on Appropriations
Subcommittee on Legislative Branch**

February 8, 2012

Chairman Crenshaw, Ranking Member Honda, and Members of the Committee, I am honored to be here today, and I appreciate the opportunity to present the United States Capitol Police budget request for fiscal year 2013. I am joined here today by Assistant Chief Thomas Reynolds, who was recently promoted to lead our operational elements of the Department, and Mr. Richard Braddock, our Chief Administrative Officer, as well as some of the members of my Executive Management Team.

First, I would like to thank the Committee for its sustained and unwavering support for the men and women of the United States Capitol Police. You and your staffs have continued to generously support both our mission as well as our personnel – not just in a monetary way, but also in private and public recognition of our role and responsibilities. The security and protection of this great institution is not only our job, but we consider it a sacred duty and privilege to serve you, the congressional staff, and the millions of visitors from every corner of the world who come to the United States Capitol complex every year. Due in large part to your support and

that of the Capitol Police Board, the Department continues to successfully execute our mission with a strong operational presence and under established business practices, controls and efficiencies.

Specifically, I would like to express our appreciation to the Committee and the Congress for providing the necessary salaries and general expenses funding for FY 2012 to support our personnel and operations, while absorbing several activities within our base funding, such as the conventions and pre-Presidential Inauguration planning.

As I begin my testimony, I would like to emphasize that my management team and I are keenly aware of the economic situation our nation continues to face. I understand the responsibility I have to submit a budget request that is not only accurate, but that is reasonable, based on only critical requirements necessary to mitigate and address threats and risks. Our FY 2013 budget request provides for those critical mission and mission support requirements necessary for the Department to address the security of the Congress, so that it may conduct its Constitutional responsibilities in an open and safe manner without disruption from crime or terrorism.

To do so, the Department utilized our Force Development Business Process, which develops our budget based on analysis of threats and risks, while involving multiple levels of the organization in the process, to include coordination and vetting of our budget with the Capitol Police Board.

Our mission-focused request is grounded in the USCP strategic goals that describe our mission and frame our budget planning: 1) assessing the threat to the Capitol community, 2) taking proactive measures to mitigate the threat so as to prevent disruption to the legislative process, 3) responding in the event of a disruption so that Congress can continue to operate, and 4) supporting the USCP's mission through constructive internal business processes and controls that foster effective and efficient mission delivery.

This budget is strong in support of those goals — with modest increases and initiatives to address identified risks and threats — yet it is flexible enough to achieve and maintain solid mission-critical results with efficient use of the resources provided to the Department.

The proposed FY 2013 budget contains a base budget that will address and mitigate identified security challenges that may potentially affect the safety of the Capitol complex and our ability to keep up with the changing

security environment and threat level. In addition, it contains requests for a few new initiatives that provide additional security for the Capitol. Finally, there is an emphasis in this request to ensure the necessary level of training for the Department's staff in FY 2013.

Over previous fiscal years, the Department has greatly reduced its training activities in order to meet other mission requirements within available funding. Training has been limited to only those areas that are critical and mandatory as required by law, rule, or regulation; or necessary to meet core mission activities. This budget includes the overtime funding that specifically relates to the training needs of sworn staff to give them the time needed to be offline and receive training in a number of key areas. In addition, training costs are being requested for what the Department has deemed as mandatory or mission essential training. This includes resources to develop a qualified pool of eligible succession sworn and civilian candidates. With this emphasis, the Department will ensure that the workforce is prepared to address our mission using current and emerging methods, as well as be well suited to address leadership needs into the future.

We realize that the Department's funding levels have grown in recent years, as opposed to other Legislative Branch entities, due to requirements

set forth to support an expanding mission load, such as the merger with the Library of Congress police to include absorbing the jurisdiction over Library buildings and grounds, and the opening of the Capitol Visitor Center. Both of these activities resulted in additional protection responsibilities for the security operations of this critical addition to the Capitol. In the upcoming year, we will also be gaining an additional protective responsibility with the opening of the Federal Office Building 8 (FOB8) scheduled to reopen in FY 2013. An additional fiscal dynamic we are managing is our implementation of a complex Radio Modernization Project. Further, the Department is managing the need to implement critical lifecycle replacement for key security and technical systems within limited available funding. We realize that the Subcommittee has limited resources with which to support all Legislative Branch entities and will continue to prudently request and execute the resources needed to meet this challenge.

At this time, I would like to offer the Committee an overarching summary of our FY 2013 request. I will follow this summary with a discussion of specific budget items of particular significance to you and the Department.

The Department's fiscal year 2013 request totals \$374 million and represents an overall increase of 10 percent, or \$34 million over the FY 2012 Enacted funding level of \$340 million.

The first subject area for which I would like to provide more detail is in the area of personnel salaries and overtime.

The Department's FY 2013 personnel request reflects our continuous efforts at all levels of management to effectively manage our existing resources to achieve the best possible balance of staff-to-mission requirements. We are constantly analyzing our workforce to align job functions, assignments, workload, risk management, and organizational readiness along with the ever-changing threat assessments and mandatory mission requirements of a dynamic Congressional community.

To operate within our current budget, we are currently carrying out our mission requirements with 1775 of our 1800 sworn positions and 370 of our authorized 443 civilian positions, and with only limited training. Much of our overall increase allows the Department to operate at our current staffing levels.

With regard to our funding request related to personnel, we are requesting an overall increase of 9 percent over the FY 2012 Enacted funding levels, which include funding for two new civilian positions for the Office of Inspector General, as well as new sworn positions to address operational requirements.

The Department's current sworn strength does not entirely provide the necessary resources to meet all our mission requirements within the number of work-hours in a year that each officer is available to perform work. This "utility" number is used to determine overall staffing requirements, and balances the utility of available staff with annual salary and overtime funding along with known mission requirements such as post coverage, projected unscheduled events such as demonstrations, late sessions, holiday concerts, et cetera, and unfunded requirements that occur after the budget is enacted, such as unforeseen critical emergency situations.

Thus, mission requirements in excess of available personnel must be addressed through the use of overtime, identification of efficiencies such as post realignment and/or reductions, technology, and cutbacks within the utility, such as reductions in the number of hours provided for training. To address some of these mission drivers, we continue to work closely with the Capitol Police Board and our oversight Committees to review such options to

offset mission requirements where possible, such as closing lower priority doors, which will reduce the total hours at posts and overtime costs needed to perform those activities.

Over the last two years, we have also been very strategic in the hiring of civilian positions to best align our resources to our needs. In particular, vacancies in the civilian ranks are reviewed biweekly to prioritize requirements for backfilling operational and mission support vacancies. Through this process, the Department continually monitors and justifies the needs of every civilian position as it becomes available. With this comes increased responsibility of onboard staff and a greater need to invest in training to gain and maintain skills needed to perform these duties.

With that in mind, our requested FY 2013 personnel costs support the current funded staffing levels of 2145 positions, as well as a request for 19 sworn and civilian positions previously mentioned. This will result in an increase from 2145 to 2164, which is still below our authorized levels.

At current staffing levels, the Department's fiscal year 2013 basic and inauguration overtime projection of approximately \$36.5 million reflects an increase over the \$33.4 million that was provided for basic and convention

overtime in fiscal year 2012. This increase primarily is a result of operating at fewer officers than our current authorized strength.

Other requested increases to overtime include an additional \$1.5 million in funding to take staff offline for additional training requirements, and \$400 thousand for the overtime needed for the FOB8 initial operations until new officers are trained and deployed. These items bring the total FY 2013 overtime request to \$38.4 million which is an increase of \$3.3 million over the total FY 2012 overtime level of \$35.1 million.

The second area of detail that I wish to provide today is an overall net increase in our requested general expenses budget, which includes hiring, outfitting, and training of new sworn personnel; supplies and equipment; lifecycle replacement for critical systems and assets; management systems; et cetera. While we are requesting an overall increase over the FY 2012 funding levels, much of the increase request is for new initiatives to address identified threats and risks, and for support of the 2013 Presidential Inauguration.

A portion of this general expense funding increase is related to new initiatives totaling \$4.9 million. Additionally, we are requesting \$800

thousand in general expense funding to support security and law enforcement activities associated with the 2013 Presidential Inauguration.

With your support, the Department continues to successfully perform our operational mission and has achieved several key accomplishments over the last year that have resulted in greater efficiencies for the Department, which include addressing several administrative challenges and improving corresponding business practices.

Operationally, so far this fiscal year, the Department has screened nearly 3 million visitors to the Capitol Complex; affected over 200 arrests; conducted over 35,000 K-9 sweeps; and screened nearly 8,300 vehicles. In FY 2011, the Department screened over 10 million visitors, affected over 900 arrests; and conducted over 160,000 K-9 sweeps. These are just a few examples of the many operational elements that are conducted daily to ensure the success of the Department's core mission.

As I mentioned briefly, the Department continues to use a management and budget planning methodology which we call the "Force Development Process". It provides for a transparent decision-making process, including reviews and approvals by an Investment Review Board made up of key agency management, and provides a structure that is

results-driven and based on meeting operational needs. We also expanded the process for program evaluations for selected existing programs. For the process that led to the FY 2013 budget request, the Investment Review Board reviewed an additional 20 of the Department's existing programs than were selected in the previous fiscal year. In addition, in order to ensure the accuracy of our budget request, the fiscal year 2013 budget went through multiple layers of review and validation, and is traceable to supporting documentation for each budget element.

Further, we continue our work to close audit recommendations and to address our material weaknesses from prior audits by working closely with our Inspector General to address issues which have arisen and by providing the evidence necessary to close findings. In particular, I am pleased to report that we recently received an unqualified or "clean" opinion on our FY 2011 financial statements. Further, we are working on the resolution of a number of recommendations in order to achieve efficiency and effectiveness of our administrative programs through long-term resolution of areas of concern. The long-term resolution of the remaining recommendations related to internal controls, business processes and material weaknesses remain of the highest importance to our management team.

As I mentioned in the beginning of my testimony, we are well aware of and understand the economic climate that affects our country, the Legislative Branch and the entire federal government, and I want to assure you that the USCP will successfully adapt our resources and continue to safeguard the Congressional community within the resources available.

I appreciate the opportunity to appear before you today and would be glad to answer any questions you may have at this time.

MEETING OPERATIONAL NEEDS WITHOUT BUDGET INCREASES AND
ZERO BASED BUDGETING

Mr. CRENSHAW. Thank you very much, Chief.

Let me start, Chief, by talking about last year, when your budget was pretty well flat lined. You got the same amount of money this year as you got the year before. But you mentioned a little bit that there were about \$14 million increases in terms of mission, like the convention, things like that, that really arguably you could say you took a \$14 million cut because you had \$14 million of additional work to do but not money do it.

And I wanted to ask you how you went about making sure that you did everything you needed to do even though you had that tight situation, which also brings the question that, as we go into this year, we talk a lot about budgeting from a zero base. And I know you all build your budget historically from the ground up. So a combination of those two, last year, when you get the same amount of money but you have additional responsibilities that you are given, tell us how you go about making sure you accomplish everything you need to do and maybe in part how you build your budget from the ground up for this year.

Chief MORSE. First of all, I want to again say thank you for the appropriation that you provided us. And to ensure that we use that in the most efficient and effective manner we do use zero-based budgeting with our force development process. It is something that we put in place very early on when I became Chief to ensure that everything that we do is focused on the threats and the needs to mitigate those threats. So our budget is not about what we would like to have; it is more about what we need to prevent to mitigate and detect any criminal or terrorist activity so that you can function in an open environment.

With that, comes a great deal of management. And of course, I do not do that alone. So we involve our executive management team. And like I said, many of them are here today. We also implemented, when we go through our force development process, an inclusion of the Investment Review Board, which are many of those people.

So we are trying to do or prioritize what we need to mitigate those threats, and we vet it all the way down through our executive management team so that we have inclusion, we do not miss anything, we are scrubbing all our programs, and we are finding the most efficient way to do things.

With respect to how we managed our way through that, that was the set up for just good strategic management. Now, there are things that we had to forego, and there are things that we are asking for in this budget that we either curtailed or pushed back. So, for instance, one of the things that we absorbed was the salaries for 25 less than our authorized strength. We reduced the number of civilians from 380 to 370. So, we absorbed that. We pushed off some lifecycle replacement of our information technology. We pushed off some of our lifecycle replacement of some of our regular equipment needs. And we curtailed training in the non-mandatory or priority areas.

So those are just some of the examples of things that we prioritized based on the need for more higher priority issues and then pushed those things off until we could satisfy those needs first. Like I said, there were some absorption of salaries. There was some from reducing FTE strength through attrition, and the lifecycle replacement of specialty vehicles and things of that nature.

So we managed through it by scrubbing each program, prioritizing the needs and then working with the resources that you provided us. And we think that we did a very good job, obviously. We safeguarded this campus. We have established clean opinions on our financial statements. We have managed large demonstrations and events here at the Capitol without incident. And, we will continue to manage this way because we think it is very successful.

Mr. CRENSHAW. Good.

INCREASED MISSION-RELATED DUTIES

Just real quick, you and I have talked about my concern that a lot of your mission gets set beyond your control. I do not know if you want to call it mission creep, but so often you have to do things that somebody else said is part of your mission. And I wondered, are you talking to the people that are all involved in what that mission is and making sure that it all works together? Because sometimes it is beyond your control. You have to go do something; you may or may not think that is something within your mission, but you do not get to set it. So can you talk briefly about that?

Chief MORSE. Well, first, the committee was very helpful in that, the language was that we report any new missions. So that has been very helpful in the justification process of any external needs with respect to increased mission. But our partners, our stakeholders, our committees of jurisdiction, the Capitol Police Board, yes, we are working very closely with each other and have found efficiencies since last year. And we have found efficiencies through—and I am just throwing out some areas that we have touched on, for instance, pedestrian counts at doors and perhaps changing the hours of operation, or a vehicle access point, or unnecessary posting. And we have reduced. We have also continued to work with our stakeholders on any other types of recommendations that we think or believe would make for a more efficient operation. And everyone has been very, very helpful with that.

But we also continue not only with mission, but to continue, as we spoke about last year, to scrub each one of our programs. And you know, we have an interdiction program, a vehicle interdiction program, that uses technology to reduce mission. And we hope that that project will be finished here in the late summer of 2013. And we will be reducing the number of vehicles that you see out on the avenues, the number of officers that are associated with that. And then the savings trickle down, to gas, fuel, maintenance, and all those things.

So we have gotten great support from everyone. I think it is a good partnership. I think everybody understands that the more mission you put, the more people you need. If you do not give more people to the security needs, then it is replaced with overtime. And

we want to make sure that we do not keep creeping with either one of those. We want to find a stable area to operate, which is, if I may, just one other thing that we have found. We have found a stable level of security. Back when I was an officer I can remember the 1980s and 1990s, where when a threat would happen, we would go up, and then we would come down.

Well, the threat is always there. You may not see it, so why go up and down? So we have found a level plane where we believe that the security operations we have address the threats that are there. We believe that the operations that we conduct and the new technologies that we are using and the training we are conducting also addresses any emerging threats. So we do not go up and down anymore. We are very stable. And I think that is another effective way to run an operation without wasteful resources.

Mr. CRENSHAW. Thank you very much.

Mr. Honda.

TOTAL SALARY APPROACH AND THE OVERTIME REQUEST

Mr. HONDA. Thank you, Mr. Chairman.

And let me thank you and the staff for the work that you do. It is like my mother says, you never appreciate us until we are gone. And I tell my mom, do not talk like that. Your department uses total salary calculations, and you have been doing that for a second year. And you do that to avoid the risk of undercalculating your budget, where it appears the budget would be on our side larger than it should be. Can you explain to us basically what is it that you do differently that pars it? And how long you can continue it? Because the other folks, they look at attrition, partial hirings and other ways of looking at the year's budget. Can you explain to me how your department is different?

And then I had a second question, as you go through that, I would like you to address the overtime requests. How much of that \$34 million is going to be set aside for the inauguration? And the last time you had it, we had an unprecedented amount of folks around. And given the 2 or 3 days that things were happening, I think there was only two incidents that occurred, two children were lost and found immediately. So I thought that was a pretty good record.

But given the anticipation, again, what is it that you are going to be looking at? And how much is it going to cost? And how will you avoid some of the missteps that did occur that could have been avoided?

Chief MORSE. Okay.

With respect to the budget question, in the past year, and working with the Capitol Police Board, along with some consultants and the Office of Inspector General, the one thing we needed do to ensure that the accuracy of the budget and the calculations of the budget were correct is to, first, abide by the audit recommendations. And we closed all those recommendations. But we even went one step further in doing that as we developed the budget. Folks in our budget office were actually participants in this.

And as we went through each level of developing the budget from zero base to what it is today, everyone was involved, and every step

of the way, we wrote special operating procedures or directives on each element of the budget.

So not only would everyone sort of participate and be inclusive, and therefore, there are more eyes on the budget and more recommendations to do it right, but now we have it documented and something that we can progress with. So we have closed the recommendations related to that. We have ensured that it is all documented, process is documented, and we have inclusiveness and successorship within the Office of Financial Management. Not to mention, we have a CFO, Jay Miller, who is new with us, who worked with us previously when we achieved our clean financial statements. And it is great to have him on board to assist us.

So the budget is correct. And the budget reflects all the intricacies of putting numbers together as it relates to salaries, benefits, any holidays—I am not too detailed on the words with budget, but I know enough about it to speak very high level on it. But those are the intricacies of the budget. And we believe we have a solid foundation now.

With respect to the overtime, a lot of questions come about overtime. But we have done a lot of really good work with overtime. First of all, we manage overtime very, very carefully. We have a utility number. In other words, we know how many officers we have on staff. We know how many hours that they work a year. And we know how many hours that we have to work in order to achieve the mission. The gap between the number of officers and the hours is where overtime comes from.

I was looking at some of the numbers from the last three budget cycles, and I saw only a 10,000-hour difference in mission load from about 576,000 hours to about 586,000 in the last three budget cycles. So that shows that we have stabilized overtime, the base overtime, and are maintaining it. We report out on overtime twice a week. In other words, the division commanders who provide the scheduling for overtime are given caps. Those caps are based on the level of missions specific to their organization and the amount of overtime they are getting to accomplish that mission. And they must achieve that. That is reported out twice a week.

Anything that is over the cap has to be explained. And we now manage down to minutes with respect to officers and employees with overtime. So we have a very strong management of overtime. The increase in overtime this year from our general base comes for a variety of reasons. One is obviously the tenure of the police department and the increases that come with salary. But also there is a request for money associated with the inauguration and pre-inauguration planning on top of the \$34 million. And then there are some increases associated with some of the training initiatives that we believe are important to accomplishing our mission. So the increase comes from some requests that we think are important to train and make our employees and officers more efficient in the things that they are responsible to do, as well as addressing the overtime as related to a large event and planning of a large event like the inauguration. So that is just some of the highlights of where we are with the budget, and then the associated overtime, how we manage that, and any increases related to it.

INAUGURATION PLANNING

With respect to the inauguration, we are getting close to beginning that planning process again. There have been some very high level meetings associated with that. We will look back to all our after-action plans that will tell us the areas in which we need to strengthen ourselves. There were obviously a significant number of people in Washington, D.C., that day. I think one of the lessons learned there was in the area of crowd management. So there will be a lot of conversation and discussion about getting people here, obviously safely, and then getting them to where they need to be, keeping them safe while they are there and then getting them home. So I think the emphasis and the lesson learned for me is people and crowd management.

Mr. HONDA. So you do not have an estimate what it is going to cost us, or is it too early? And is the cost over and above what was it, \$38 million?

Chief MORSE. I believe the estimate is about \$1.6 million overall with pre-inauguration planning and inauguration overtime.

Mr. HONDA. Okay. And would you be able to provide us a working plan offline so that we know what it is that you are going to be doing in terms of articulation between our department and other jurisdictions so that there is coordination? Anticipation of things that happened in the past, like folks being stuck in the tunnel, traffic management, people being able to access the right gates that is designated to them, and keeping out the other folks who are not designated those gates. There was a lot of frustration with all of that.

Chief MORSE. Yeah, like I said, we have after-action plans that we know what we will be doing or discussing to improve that. But I think the communication and coordination between other local, State, and Federal agencies, we can also provide you the methodology for planning this, which is really done by committee. And the good news, there is some good news here with respect to that, and we found it to be very evident in the State of the Union preparations, is that because of economic times and financial issues, people have not left. They have not been moved around. And so we found that all the people who were involved in the last inauguration from a planning standpoint in law enforcement are still in place today. So we will all be very familiar with some of the, strengths and weaknesses of the last inauguration. We will not have to reintroduce ourselves to each other. And we will be able to work very closely on the issues.

Mr. HONDA. We will get that report?

Mr. CRENSHAW. Yes, we will get that.

Mr. LaTourette.

AOC AND CAPITOL POLICE PROJECT PARTNERSHIP

Mr. LATOURETTE. Thank you, Mr. Chairman.

Chief, welcome. Nice to see you again. I want to use this hearing as the opportunity to commend you and your officers for the great job that you do. It is my 18th year here, and it is outstanding police work. And I thank you.

In your budget, you have identified four new initiatives at a cost of about 5 million bucks, give or take, threat assessment against Members, upgrading alarms and doors on the garages, the reopening of the Federal Office Building 8 (FOB8), and then computers. I am aware that this year for the first year—I think—that overtime as a result of projects, ongoing construction projects is going to be paid out of the Architect's budget. My question on FOB8 and also the garages is, why is not that a function of the Architect's? I know why you would be involved in designing the alarms and designing the security measures that are going to be over at FOB8, but the hardware that is involved, and I assume there is some hardware in that 5 million bucks, but why doesn't the Architect have to pay for that? Why are you paying for it?

Chief MORSE. Okay. With respect to the partnership between the AOC and the Capitol Police, obviously, there are a lot of security projects that we do together.

Obviously, the need for the Capitol Police to be involved is the integration with the systems that we currently have, and also it has been longstanding that we maintain those systems throughout. So being involved in the process of design, being involved in the actual installation, and then executing the plan of operation and maintaining it have always been with the Capitol Police.

The AOC has always been involved in the purchase of, security equipment that we have installed. So I think really the only—really the only answer that I have to that is it is historical, it is a good relationship, and we work well together.

Mr. LATOURETTE. Because we have done it that way forever.

Chief MORSE. We have done it that way forever. But certainly, everything that we do, we take a look at.

Mr. LATOURETTE. Sure.

Chief MORSE. And, I have not done any, real scrubbing of if there are any efficiencies in doing that any differently. But we could certainly do that. And I know that the Architect, he is here today, and I do not mean to talk about Mr. Ayers as if he is not—I appreciate him being here—is that we will continue to work together to find if that is the right thing to do or if there is more efficiencies in doing it differently.

THREAT ASSESSMENT INITIATIVE

Mr. LATOURETTE. Sure. And on the first initiative, the threat assessment for Members, is it too early to say what you are thinking about using that money to do? Or do you have some plans in mind and now you just need the dough to exercise it? Just my own editorial comment, beside the tragedy to Congresswoman Giffords notwithstanding, I think the greater threat more than to Members is to our staff, and not necessarily staff here in Washington, the staff back home. Because that is where all the crazy people really are. I mean, every once in a while they come here, but most of the time, they are back home. And the advice to this moment in time has been we have a liaison with our local police department, and if something happens, we will give them a call. When there is a threat, we notify you. But it is always after the fact, I guess. I always think it is not the nutty person that makes all the threats; it is the nutty person that does not make the threats and executes

that we have to be aware of. So are those the types of things you are going to be looking at? And is it going to include a component to enhance the secure feeling of the folks who we have back in our districts?

Chief MORSE. I think first is that any tool that we as law enforcement can use to protect people and assets are things that we are going to explore. And I think the threat assessment initiative is a tool that we are exploring that we support. And it being a tool that we potentially can use to stop a threat that otherwise we may not see. But I think the execution of that is something that we still will have further discussion on because we want to make sure that it is done in the most efficient way possible, that we are not reinventing the wheel, that we have the proper infrastructure to do it the right way, and also, safeguard the taxpayers' money that we are providing a security tool that will have its benefits. And the benefit is protecting you, staff, the visitors here at the Capitol Complex.

So the Sergeant at Arms, the House Sergeant at Arms, the Senate Sergeant At Arms, the Capitol Police Board, myself, will be working very closely with the committees to try to achieve the best practices with respect to threat initiatives.

Mr. LATOURETTE. And just given your partnership with the Architect, I am not aware of any requirements that we have as Members to have a certain type of district office. If you are in a Federal building, you have setbacks and set-asides and all this other business.

Chief MORSE. Right.

Mr. LATOURETTE. I think if it included the design, based upon your experience in law enforcement, as to what makes that group of people safer. Because when I started our reception area, it was open back in Painesville, and then we had to build what I call the impeachment wall, because during the impeachment proceedings of President Clinton, there were some rather animated people on both sides of that issue. So we built a wall with a window for our receptionist so she was not exposed—and I think things like that would be helpful, you know, not dictating what you have do, but maybe some suggested designs that are proven to keep people safer.

Chief MORSE. One of the things we have done with the threat assessments that we do with district offices and here on the Hill that we do with our buildings, we have criteria set. So we have what we believe is reasonable, and from the low end to the high end. And each, as you said, each office is different. And each environment can change the way that we would advise or recommend any security changes within an office.

So we continue to do that. We have the criteria. I would be happy to share that with you as well. But we have a wonderful director of security services bureau who sets that criteria. We work very closely with the House Sergeant at Arms so that when the assessment is complete and the recommendations are made, we still scrub that to make sure that it is in fact what will keep you, your staff, your constituents safe in whatever building, office that you may be in, whether it is here or in your district.

Mr. LATOURETTE. I appreciate that, and thank the chairman. I think the only security measure we have is we have two pieces of

tape to determine whether our assailant is 5 feet or 6 feet as they go out the door. That is a little after the fact. Thank you.

Mr. CRENSHAW. Mr. Bishop.

SECURITY FUND FOR MEMBER DISTRICT OFFICES

Mr. BISHOP. Thank you very much, Mr. Chairman.

And Chief, welcome, and welcome to all of your team.

Let me just join my colleagues in thanking you for the job that you do in providing security for the Members, our staff, and for the thousands of visitors that come to the Capitol, as well as your concerns for our district offices.

I want to follow up on the last line of questioning that Mr. LaTourette was pursuing, certainly in light of the Tucson shootings. Last year, the subcommittee accepted an amendment that I offered, after some significant discussion with the Sergeant at Arms, to transfer a million dollars from the Member transition activities to increase the Capitol Police fund to establish a security fund for Member district offices and upgrades, because there were guidelines following the Giffords incident. The Sergeant at Arms, in conjunction with the Capitol Police, did issue the guidelines and suggested best practices for security, both for our Capitol offices as well as our district offices. And of course, much of that required some physical security upgrades and required the Sergeant at Arms, in conjunction with the Capitol Police, for offices that requested it, to send their districts teams who actually conducted physical assessments and made recommendations. Of course, that MRA did not cover the additional threats that we encountered last year. There was a 5 percent and then a 6 percent reduction in our MRAs. But we also became aware of the need to do these upgrades.

So how do you plan on implementing this security fund for district offices? What is the status of compliance with Members? Because one of the things that we were asked to do was to establish a person within our district offices that had a responsibility specifically for security, and to arrange for security with local law enforcement wherever we travel throughout our districts. I have a district that consists of 32 counties, which is about a fifth of the land area of the State of Georgia. So every time I travel, I have got to have coordination through my staff with the local sheriffs, the local police departments in the destination where I am going so that they know I am coming. So can you discuss this issue?

Furthermore, in coordination with the Sergeant at Arms office, will you be making any new recommendations to Members as we go into the new Congress and as Members begin to set up their offices? Our leases will be up for renewal and those Members coming back and the new Members will be executing new leases. Will there be some criteria that are made clear for Members in setting up their offices for the 113th Congress?

Chief MORSE. All right. With respect to the threat assessments and the offices, the status that I have, and they have the numbers, they may not be totally correct, but I think we had about 257 requests for Member offices reviews and assessments, using the contractor as well as Capitol Police, of which 31 offices, made orders to make those changes.

We are, the Capitol Police, is funded, obviously, and from a historical perspective of how much we do and how often we do it, are funded to continue to go out upon request and the approval of the House Sergeant at Arms do assessments. And I would believe, and I do not want to speak for the responsible entity with respect to the contract and so forth, but we would anticipate that that would continue. So, in other words, if you were to go to a new district office you could request an assessment of your office, and we would go about making the assessment and recommendations to ensure that you have a properly set up office and that you have safeguards there for the various threats that we face. So we are prepared to continue to do our threat assessments and make recommendations to the Members for their safety.

Mr. BISHOP. The million dollars that we transferred to the Capitol Police security fund for the district offices, it is a very small amount of money. I understand, on the Senate side, they have substantially more money set aside for that purpose. But last year was a very, very tight budget year. Is there any way that you can add to that? Is that million dollars sufficient in light of what we will need going into the next Congress? I mean, that was almost a place holder, from my discussions. Is that sufficient, or have you utilized it? Are you going to utilize it? It is very difficult for us to take MRA money in order to do those physical upgrades.

Chief MORSE. Right. I think, and I may not be understanding your question, I apologize if I am not, but the money that we are provided is for the actual assessment itself. The MRA, the money provided there is, as I understand it, would be the recommendation that the Capitol Police makes for your office would then be approved, and then that approval would then lead to the expenditures of those funds, if approved.

Mr. BISHOP. Expenditure of funds from my MRA?

Chief MORSE. That is correct. Not from our budget.

Mr. BISHOP. The money you set aside is being utilized by your people to go out and perform the assessments, the travel and—

Chief MORSE. Yeah, from a historical perspective of how much we do and—

Mr. BISHOP. And I guess with the contractors, too.

Chief MORSE. Just for the Capitol Police piece of, actually traveling to, the per diem and the stay time and travel and all that, is provided to the Capitol Police to make the assessment. We do not receive any money to actually provide the upgrades or buy the upgrades. We simply make the recommendation from our security professionals. And then once that is approved, then the process, I believe, goes to a different entity other than the Capitol Police for distribution of funding to actually implement that. And I am sure that—or at least I believe, if I recall, I think it was reasonable to say that some are more than others, obviously, depending upon the environment in which they work. But I think that it seemed to be reasonable to me that the cap that was there would provide the level of security that you would need. But that is beyond where my responsibility is.

Mr. BISHOP. Right. I guess what I am asking, do you need more than the million dollars? I think you said that assessments were provided for and there were 31 that actually did the upgrades? If

all of the offices were to request that going into the new Congress, do you need more? Would you need more? That is the question.

Chief MORSE. I understand. First, we were not appropriated the money in the bill.

Mr. CRENSHAW. Actually, in the conference report, the million dollars that we put in the House, the Senate did not agree to. So that money was not available for anybody. But I think that is what we are talking about, that is a good concept to pursue.

Chief MORSE. And with that, the assessments would be conducted, they would be approved, and then the payment for that would be beyond what the Capitol Police is responsible for. But I think that we would certainly have a part in giving any guidance or direction on the criteria set for the offices and how much it costs on an average to make sure it is taken care of.

Mr. BISHOP. Ultimate responsibility for that falls under the Sergeant at Arms, right?

Chief MORSE. The Sergeant, the House Sergeant at Arms is responsible for the Members of the House, security. The Capitol Police certainly are in partnership with them to execute the needs that we talked about in our budget today to actually safeguard the Members. So I think that the requests are all vetted. I mean, it is not one eye looking at these things. It is quite a few people. And the decisions that we make are collective decisions that are ultimately approved by the House Sergeant at Arms for security.

Mr. BISHOP. While I know that we are concerned about the security of Members, I wanted to emphasize that even more important are the staffs and our constituents that visit us in our offices and in our town hall meetings. They, too, are exposed. The security we provide therefore is security for them as well.

Chief MORSE. We would agree. And I would just say for the record that any security posture or operation or technology that we use is not specific to any one individual. It is about everyone who is in that environment, whether it be in a building, an open environment, a district office. We are concerned about everyone.

Mr. BISHOP. I just did not want it to appear that I was purely concerned about Member safety. I am concerned about everybody's safety. I think this committee would take that posture. We want to make sure that the public, which includes Members and staff and visitors, are protected.

Chief MORSE. Thank you.

Mr. CRENSHAW. Thank you.

I have got some more questions that I am going to submit for the record. But we have a little time, if members have another question.

LESSONS LEARNED FROM THE EARTHQUAKE

And one thing, Chief, I would love for you to comment on the situation that happened this summer with the earthquake. I was not here. But I understand there was a lot of concern on you all's part, on the people that were here, the staff, some of the Members. And unfortunately, sometimes it is these events that occur that we are not expecting that we tend to learn from, like with Gabby Giffords last year. So maybe can you tell us anything that you all learned in the midst of this kind of tragedy? Does this help you plan for

other things? Or are you always ready? But what, if anything, did you learn from that overall situation?

Chief MORSE. Well, first, I was in the Capitol building when we had the earthquake. And I have never been in an earthquake. So I wasn't sure what was going on. But I think that all the things that we have planned, and I have said this before here in the hearings, is that we only do three things: We lock down and defend, we shelter in place; or we evacuate. And that is what we practice. Because the decision-making to do those things—I mean, it could be aliens coming down, and I mean, we would do the same three things. So we practice that very hard. The decision-making part sometimes comes very quickly. And you have a lot of things to evaluate.

So, in other words, I actually took command of the situation because I was here, and I was a part of it. And one of the first things that went through my mind was evacuation or not to evacuate. Well, not just based on, is it an earthquake, but am I sending people out into harm's way? So all that type of stuff is evaluated very quickly. In other words, was that an earthquake, or was that a blast concussion? Will something else occur? So all that was made very quickly.

I found out that during many events that we have had on the Hill, from 9/11 to the air security evacuations we did several times, that there is a self-evacuation that happens, and it is hard to slow down or control. People's reaction is generally to go. And so one of the first things I said on the radio was probably the worst thing we could do right now is try to stop anybody from running down the halls or out the doors, is to kind of facilitate that, once I had determined that there was nothing in harm's way, and then to execute a controlled evacuation. And then everyone, the staff, the community, the visitors, everyone did a wonderful job.

And they went to where they practiced to go, whether it is a fire alarm or a water flow alarm, or any of the other types of alarms we have, or air security threats where we evacuate the building. Everybody moved at a quick pace, but very calmly and efficiently, to their locations so that we could communicate with them.

So I think from a decision-making standpoint in a crisis, there are a few things as a police officer and as a commander that you have to do and make decisions on. But I think the three things that we practice with the staff worked very well.

I think one of the lessons that I learned, and I have learned this before, is that your BlackBerrys, cell phones, iPods and all those other things, they just do not work because everybody is trying to use one. So you cannot rely on those. And you know, radio systems, direct radio systems or coms, are the best alternative to that, especially if you are in close quarters like we are, which is another reason for our radio modernization project. For crises like this, not only can we continue to communicate with each other, but we can communicate with our partners.

So I think one lesson learned is to have a plan. That was one of the things that we have always been talking about. Have a plan, not only from law enforcement, but in your respective offices. Have a plan to communicate with your offices when you are not sitting

there together so that you can check on each other and your anxiety levels can come down.

And then from the entities that work up here together, you know, a radio system works very well. And I know, if I may, from the House emergency management team that we work very closely with, and who supports us and supports this community during a crisis, had that capability to communicate with each other. And they have established that so that we can continue to work together, not only as the crisis happens, but all the follow-up things that happen after it, to include any potential long or existing times away from the building. We executed an opening of the Senate at a relocation site, something that we practiced often, and something that took place that particular day.

So some lessons learned were communications. Evacuation is obviously always a concern. There is a lot of self-evacuation during a crisis, and you have to be able to manage that as calmly as you can. And we are now adding earthquakes to our plans of action. And hopefully we will not have another one other than the tremors that we have been experiencing since the main one.

Mr. CRENSHAW. How about tsunamis?

Chief MORSE. Well, we have the reflecting pool out here.

Mr. CRENSHAW. I think we are safe.

Chief MORSE. So I do not know if we can get a large wave out of that. But we definitely have now I think covered just about every single thing that can possibly happen to us.

Mr. CRENSHAW. Thank you very much.

Mr. Honda.

COMPREHENSIVE EVACUATION EMERGENCY COMMUNICATIONS PLAN

Mr. HONDA. Just to follow up on that, I understand what you had told us. And 8 or 9 years now, I have been asking for a comprehensive evacuation emergency plan that includes communications. And you may communicate among your own team, you may communicate with each office through the one-way radio system. And I will say it again, that one-way radio system annunciator is a World War II technology. If you are going to have three kinds of responses that you are looking at, you still have to communicate with the personnel on the ground, and they have to be able to know where the event is. And someone in the headquarters needs to be able to see and direct the number of folks on the different levels of each building in order to do that correctly, to avoid jamming up one exit, or avoiding the exit that needs to be avoided by each floor. There are ways to do this to understand how many people are in each floor and each building and be able to communicate multiple ways in real time. You have not achieved that.

And I think that whether it is the emergency team or the coordination of different entities that need to do that, we need to make sure that we have at least a conceptual plan on how you are going to approach it.

This will be my 10th year. I am not going to leave this year without some plan with the coordination of understanding how you are going to be able to communicate with each office. Each office can communicate among themselves and be told you have to have a plan. But your offices, or the emergency center, wherever that is,

or whatever team that is, we have to have one plan to be able to coordinate and move people around on this Hill. I think we have that overall responsibility. We should have learned that from 9/11. And I do not want to see Members running out of buildings in half panic because someone said there is a plane flying over, get out. That is not instructive; it is not helpful.

And so, you know, I just want to be real clear again this is a task I think that the group of folks who are responsible for the safety and welfare of our folks on this Hill needs to come up with. Let us know what the costs are. Then let us be responsible for saying yes or no.

But the lack of a plan, a complete plan of communications, because I think that communication is the key between the areas of responsibility we have on this Hill, is still lacking. And I am hoping that the different entities—I am still not clear who has responsibility for what arena, Sergeant at Arms, police, Capitol Police, the CIA, the FBI, you know, whatever. If the Senate side does not want to do it, then let's just have a plan in place and ready to go for this side.

And I know that we have issues around upgrading our buildings and having remodeling everything, but that should not become a barrier from effecting a plan and coming up with the concept on how we are going to do this. We have a big concern about cybersecurity. This is one of them. And I think that we have the technology available to sit down with somebody, the folks who understand this, and help us come up with a plan. So hopefully you can meet with your emergency team, come up with a distribution of responsibilities so that it looks like one organism, and come back with a written plan that will give us some sense that these things have been taken into consideration in order for us to be able to evacuate a building, an area, identify an area where the event is, and telling us how you are going to move people through that building to get out safely. Building more doors and ingress and egress is helpful, but if folks do not know where things are and do not know where the events are, they do not know how to make a good decision unless someone is communicating from some central area. That has to, in my opinion, has to be done.

And on the area of district security, I shared with my colleagues my concern about it, but I also understand that it is our responsibility. And if you have sets of to-dos for Members, whether they are new or not, Members who are going to be a new district, because redistricts happened this time, that all of these kinds of things could be thought of and shared with the Members, and the Members will have to take the responsibilities, because we didn't. We were not successful in putting the money in for a more active participation in this plan.

So hopefully these things will come into play, and I appreciate your time.

Mr. CRENSHAW. Do you want to comment on that, or we will take that as a comment?

Chief MORSE. I will take it as a comment.

Mr. HONDA. It is not a comment. It is a direction that I want to see happen.

Mr. CRENSHAW. Okay. Take it as a direction.

Mr. HONDA. Some outcome, at some time in the future; at least come back with a written plan that says that we can look at it and vet.

Chief MORSE. Okay. Thank you.

Mr. CRENSHAW. Mr. Bishop.

Mr. BISHOP. Thank you very much, sir.

UNION SQUARE JURISDICTION TRANSFER

Mr. BISHOP. I have got two questions. On January 24, 2012, Roll Call did an article concerning the transfer of Union Square in front of the Capitol from the National Park Service to the Architect of the Capitol. I assume that there was a security reason for that transfer, because as I understand it, when the National Park Service had jurisdiction over it, the National Park Service Police were responsible for policing it.

Was that transfer done to enhance the security of the Capitol Building complex?

Chief MORSE. That is correct.

Mr. BISHOP. So that would mean that it would be the Capitol Police's area of responsibility once the transfer was made.

Chief MORSE. Once the transfer is made, it becomes the property of the Architect of the Capitol, buildings and grounds, which is the jurisdiction of the Capitol Police.

Mr. BISHOP. There was in the article a comment by an attorney who represents protest groups, who indicated that the National Park Service had created criteria for granting permits for protests, but that the Capitol Police did not have a similar policy. The attorney was expressing some concern that the Capitol Police policy was spotty, and that there might be some problem with protesters having access. I just wanted to bring that to your attention so that, going forward, whatever procedures and criteria are set can be standardized.

PROGRESS REPORT ON THE DISCRIMINATION LAWSUIT

The second question I had is a little more pointed. I wanted to ask you if you could give a progress report on the 2001 discrimination lawsuit that was filed by Capitol Police Lieutenant Sharon Blackmon-Malloy as the lead plaintiff. It was a class action on behalf of 200 African American officers who alleged that they were denied promotions, retaliated against, unfairly disciplined or fired because of their race. I understand that 19 of the plaintiffs withdrew from the case, but that the remaining plaintiffs are still pursuing their legal options. What is the progress of the case, and is the resolution near?

Chief MORSE. The status report would be that it is still in litigation. And, of course, in litigation, the agency can't comment on the specifics, but from a judicial sense it is in the process. It has been handled in accordance to the way the judicial process wants it to go. So that is where we are right now with that.

Mr. BISHOP. Okay. I understand that you can't really comment on the specifics of the case. I guess what I am really asking is whether or not progress is being made. Are there settlement discussions under way? Are you preparing to actually litigate? What

is the status of that without going into the merits of the case one way or the other?

Chief MORSE. Well, I think what I could do is have my Office of General Counsel, provide you with, either in person or in writing, a more detailed brief than I could provide you here, and that might be helpful in answering your question.

Mr. BISHOP. That would be acceptable to me. I would just hope that maybe he could do both so that the record of the committee proceedings would reflect the written response. And I would be delighted to have an in-person visit by the general counsel in order to get briefed on it. But I do think it is important for whatever your response is to be a part of the record that is here.

Chief MORSE. Okay.

Mr. BISHOP. And I would like to ask the chairman when that is submitted to make it a part of the record of the hearing.

Mr. CRENSHAW. I would be happy to do that.

[The information follows:]

As Chief Morse recommended to Congressman Bishop in response to his request at the hearing for an update to the Blackmon-Malloy, et al. v. Capitol Police Board, 01-cv-0221 (EGS) case, counsel from the USCP Office of the General Counsel and Office of Employment Counsel met with Congressman Bishop and staff on March 6, 2012. Prior to the meeting, the USCP provided to Congressman Bishop a litigation update for the Blackmon-Malloy case which is presented below. During the meeting, the parties discussed the litigation update document and the present status of the case.

NON-PRIVILEGED COMMUNICATION

BLACKMON-MALLOY, et al. V. CAPITOL POLICE BOARD
LITIGATION UPDATE – 01-CV-02221 (EGS)

Procedural History

- * On April 12, 2001, several Plaintiffs sought counseling with the Office of Compliance. The Capitol Police Board (CPB) attempted to schedule mediation with each of the Plaintiffs but after only 8 Plaintiffs mediated their case, the remaining Plaintiffs sought to end mediation and go directly to district court.
- * On October 29, 2001, Plaintiffs filed a Complaint in district court alleging discrimination, harassment, and hostile work environment. On September 24, 2004, the court dismissed the claims of approximately 322 plaintiffs and permitted 8 plaintiffs to proceed. The plaintiffs appealed this ruling to the D.C. Circuit court.
- * On July 31, 2009, the D.C. Circuit remanded the case for the district court to determine which plaintiffs: 1) requested counseling within 180 days of the alleged discriminatory act; 2) sought mediation no later than 15 days after receipt of the end of counseling notice; 3) provided notice of their claim to the Capitol Police Board (“CPB”) upon request; and, 4) timely filed a complaint in district court within 90 days of receipt of the end of mediation notice.

- * On May 10, 2010, Plaintiffs filed their Fourth Amended Complaint, but did not address for each plaintiff the specific responses to the questions set forth by the D.C. Circuit. On August 12, 2011, the CPB filed a Motion to Dismiss identifying each plaintiff and the reasons for dismissal.
- * On May 1, 2011, Plaintiffs' counsel filed an opposition but again did not identify responses to each of the questions for each plaintiff.
- * On December 23, 2011, the CPB filed a reply brief and again took each plaintiff and each allegation and addressed the court's request. The CPB started with the 312 Plaintiffs identified in the Amended Dismiss and found that 111 of those Plaintiffs had previously asserted that they did not wish to be a part of the case. Of the remaining 201 Plaintiffs, 139 did not provide any declaration regarding their claim. Of the remaining 62 Plaintiffs, 58 did not identify a claim that was brought within 180 days of the alleged violation, did not provide notice to the CPB of their claim, and/or did not timely file in district court. Thus, 4 Plaintiffs provided notice of their specific timely claims and 8 Plaintiffs provided information about their specific retaliation claim
- * The parties are awaiting the Court's decision on the Motion to Dismiss which could take several months.

EMERGENCY PLANNING

Mr. CRENSHAW. One thing, Chief, when I asked you about, what you might have learned from the earthquake, what you learned from tragedies—like you mentioned a couple of times we have had people invade our airspace, and I think you said the first thing you learned is to make sure that you have a plan. I guess in conjunction with Mr. Honda's questions, I think we all assume there is a plan, but I don't want us to leave thinking there isn't a plan. Maybe you could talk a little bit about, in conjunction with the comments that Mr. Honda made, what those plans are.

Chief MORSE. Sure, absolutely. I think that if I understand—I don't want to speak for Mr. Honda, but he will correct me if I'm wrong. First of all, we do have plans. Obviously we have plans. We executed them, and very successfully. Each entity has plans. We are partners in those plans. We drill on those plans routinely, and we have been very effective with them.

With respect to, I think, the question that Mr. Honda has is that the current technology, the current information systems, the way we go about notification through PA systems, enunciators, emails, cell phones, BlackBerrys, and things of that nature, I think his question is he would like to see that be more comprehensive, that it fall under one entity, and that it involves some technology in our buildings where we can see each floor; in other words, camera systems that we can see each floor, PA systems that we can say, hey, the doorway is blocked, go to the other end, type of situation. And that is the comprehensive plan instituting technology that he would like to see here on the Capitol campus.

But with respect to evacuation plans, shelter in place, lock down the facilities and defend the buildings are all planned, all trained, and we have executed them, and the staff do a very good job of being good partners in that.

Mr. BISHOP. Mr. Chairman, the electronic door construction that—I guess it was implemented sometime in the last year and a half or 2 years—so that each segment of the Capitol and the office buildings have those sliding doors which allow somebody to hit a switch and seal off portions of every building that we have on the campus. I assume that that is the case because I know that at certain times of day and during certain events, those doors don't automatically open when you approach them. They are locked down. Who controls that? You give an order, and somebody in the Architect of the Capitol's office then executes the button to lock down particular sections?

Chief MORSE. Well, the ability during a lockdown of the campus is directed by the police and executed by the police. In some cases it is electronic, and in some cases it is manually done. I won't get into the specifics of that because—

Mr. BISHOP. That would be inappropriate.

Chief MORSE. That wouldn't be appropriate. But, yes, the police execute the lockdown, and in some cases, it is done electronically, and sometimes it is done manually.

Mr. HONDA. For what purpose?

Chief MORSE. Well, for instance, we have done lockdowns when we have had—most recently that I can think of, we did a lockdown

on the Senate side because we had a man who was trying to get us to kill him. Suicide by cop.

Mr. HONDA. So to isolate certain areas.

Chief MORSE. Right. So in other words, the subject was outside. We wanted to keep him outside, and we wanted to keep people away from coming in and out of the building or him getting into the building.

Mr. HONDA. These are doors at different levels of the building?

Chief MORSE. That is correct.

Mr. HONDA. They are outside? You secure the outside perimeter?

Chief MORSE. That is correct.

Mr. HONDA. Inside, what purpose do those walls have; stopping ventilation and spreading smoke, stopping people or guiding them downstairs or what? I mean, is there a plan around the utilization of those doors in the hallways?

Chief MORSE. A plan for utilization of doors in the hallways? Well, with respect to fire, I mean, they are activated to close off areas, contain areas, and keep people from going to certain places, yes. And then—

Mr. HONDA. And between the doors, if I may, are there exit points between those doors so people can evacuate the area, or— and do you know where those people are in real time so you can guide them out?

Chief MORSE. Not always do we know where people are in real time because there are not camera systems in every single location in all of the buildings. But what we do know is that our evacuation plans, which are provided to each office, and the route that they need to take are designed for the most closest and expeditious way to get out of the building during any event.

Mr. HONDA. How do you know which exits you take at each floor if they don't know where the event is taking place? Those are my points. I mean, you may have the three plans.

Chief MORSE. Well, you know, but—

Mr. HONDA. And you may be able to—

Chief MORSE. But let me add something here so we make this real. I understand what you are saying, but events unfold very rapidly, and we don't want to get into a situation where I tell you to go to that end of the hallway, and now the threat is standing down there. So what we have is we have police who respond to incidents. Police officers contain those incidents, and we give people direction. We can't, with the technology that we have today, be talking through PA systems—in my opinion. This is my opinion. Someone can disagree—

Mr. HONDA. You can't, I agree. You should have the equipment.

Chief MORSE [continuing]. To move people to one end, and now the situation has changed, and now we are trying to catch up to that. So, our plan is to have the best design plan of what people are to do while they are in the building, and when we want them to get out of the building, when we want them to shelter in place, and we give them those instructions, and then we train them in those instructions.

Mr. HONDA. The officers?

Chief MORSE. No, the staff, and we hope that the staff follows those instructions during emergency events, and that they also

caretake for the people who are constituents that are actually in the building.

But when the police give direction, or there is a plan direction, we know what that is. We know where you are going. We know how you are getting there. We know where the threat is, and we are going to go address that threat. But we have to be very careful if we are going to spend a lot of money on telling—telling people in the hallway what exactly is going on versus getting them someplace safe, because we may be delaying that, or putting them in harm's way.

So I think that we can work together, though, on finding sort of a good solution to the use of technology, and maybe perhaps technology that will get the word out quicker, but I think when you have 23,000 people on a daily basis that you are trying to give direction to, that a preplanned, and pretrained, routes are the best solution.

But I think we should just be careful that we don't go down the path of too much technology, because, we found, as in the earthquake, that some of the wonderful technology that we use every day doesn't work very well. So, and some of the sort of—

Mr. HONDA. That is my point.

Chief MORSE. Yeah. And, I don't disagree with you. I just want to make sure that, as the chairman said, that if you understand, we have a plan, and we train in that plan, and our staff trains in that plan, and you do a very good job. And we think that you should stick with that.

Mr. CRENSHAW. Chief, let me just interrupt to say, I think sometimes Members are the last to know. I mean, my staff will come in, and they have been contacted, they have been trained. I am not sure I know exactly what to do, but they all know what to do. They know where the gas masks are, and I think you all do a good job of executing.

Mr. BISHOP. And the drills, too.

Mr. CRENSHAW. Yeah. We probably all ought to go back and check a little bit ourselves.

Chief MORSE. My father always tells me that people will focus on a negative. They never focus much on the positives as they do the negatives. There is a lot of positive comments and accolades that have occurred during some of these critical events that we don't focus on, and some of them are in direct contradiction to some of the negative.

Mr. BISHOP. Yes.

Chief MORSE. And I don't criticize either one. I am just saying, you as an individual, and you are placed in a situation where you are not a law enforcement officer, a firefighter, a military personnel, where you are not trained in situations like that, your perceptions and how you react are going to be very different from person to person to person. And so we can't necessarily react to the negative comments and actually exacerbate the problem. We have to, from a professional standpoint, find the best solution between technology and just the good old-fashioned way to get people out of these buildings as quickly as we possibly can when we need them to, but also be able to keep them there when we need them to as well and safeguard them. It is a very difficult task.

Mr. BISHOP. Chief, a couple of years ago I was involved in a situation in the Rayburn Building. I actually had been to the Pentagon for an event, and as I came back, my car was parked in my space in the Rayburn Building, but apparently there had been what was thought to be gunshots. It turned out ultimately to be somebody transporting sheetrock that actually fell off the cart and hit the concrete and sounded like gunfire.

An alert went out, and there was a lockdown. That whole section of the Rayburn parking lot was sealed off immediately. SWAT officers were there, and all personnel, everybody was prohibited from going to that area.

I was trying to catch a flight. My luggage and everything was in my trunk of the car. My car was in the parking lot, and I was trying to get to the airport. This was 4 o'clock. I had a 6 o'clock flight. So the only thing I could do was go to the Rayburn Building and express my concern to the officers in charge who were trying to check out the situation.

Eventually they were able to say, well, we will try to get you to your car. And it took a SWAT team employing a military maneuver; that is one rushes out to the car, three of them looking both ways with AK-47s pointed, saying, "come and get your luggage out."

So I ended up having to leave my car. But I got my luggage, and then walked down to Cannon to catch a cab to get to the airport. I thought it was executed in a very professional way though. They had to react to what was happening on the spot before they were able to clear the area.

Chief MORSE. Well, I was the deputy chief in charge of that scene, so you can thank me for the SWAT team, and I also can tell you that the word was getting back to me that you were stuck and couldn't get to your flight.

But, yeah, we were searching for what we thought—it was in July, August of 2006, was in the Rayburn House Office Building, and, yeah, we had to do a lockdown internally, and we had a massive effort to find out. And then, of course, there were the ghost calls of, there is more shots being fired and people moving.

Mr. BISHOP. People were running when they heard it. People thought that the sounds were the gunmen running, and so there were all kinds of rumors flying in that regard.

Chief MORSE. But I think that that is a good example of, the types of things that we deal with and how amenable we are to helping our Members. So the SWAT team was happy to help you on that.

Mr. BISHOP. I did catch the plane.

Chief MORSE. I must say, though, that at the time we had already cleared that particular area, but just to safeguard the Member, we took him down to help him out. So—

Mr. CRENSHAW. Anybody else?

Mr. HONDA. Just a last comment. I don't question your sense of importance about our safety, but I do question whether you are open enough to look at incidences that may occur that have not—that could be anticipated and planned around by looking at what it is that you need to effect that kind of a security; being able to communicate with your folks on the ground, because the last time

I was told while on the seventh floor of Longworth, we had an officer come up to the seventh floor and tell you where to go. And I thought to myself, the officer is going to have more things to do on the ground. If he is going up the stairs, because you can't use the elevator, he will be going upstream of people coming down.

And so, you know, I think there has got to be a lot of exercises on what ifs, and not be confined to those things that you have already been used to or exposed to. And the thing about incidents is that sometimes they are unanticipated. No one ever thought there would be a 5.6 earthquake here. Californians, we just shrugged it, but everybody else thought it could have been anything from a terrorist attack to whatever, and when that happens with people, they panic. And knowing how to respond and getting information from authorities that say, we know what is going on, and being able to communicate that.

I use BlackBerrys all the time, and you may say it gets jammed, but we cannot—we cannot depend upon serendipity of the use of our BlackBerrys and whether it is going to get jammed or not. We have to have a plan, and I beseech you to work with your colleagues and the emergency team to at least come back with a conceptual idea of what you think you are going to need in technology to bring us up to date, because the Capital of this country, the greatest country in the world, the marching of innovation occurs, and we are still using what we think we are comfortable with. It is not going to be acceptable if something ever happens. I am adamant; I am not angry, but I am just adamant.

Mr. BISHOP. Mr. Chairman, right after 9/11, I think former Congressman Ney was chairman of House Administration. Because of the pandemonium that occurred on Capitol Hill, the House Administration authorized Members and Members' families, spouses in particular, to have BlackBerrys so that they could have the instant emergency communication. It is my understanding that because of the anxieties that Members have with regard to the status of family members who may be on or off the Hill, it was put in place as a security measure this policy so that Members and their families could be in communication. That is still the policy, as I understand it.

Mr. CRENSHAW. I think I know when they did that. I think this committee absorbed the cost of that. I don't know the status. We ought to see what the current status of that is.

Mr. BISHOP. I think it comes out of our MRA, but I think it was authorized.

Mr. CRENSHAW. Use of the MRA plan.

Mr. BISHOP. Yes, for family members to have an official BlackBerry, except for the security.

Mr. CRENSHAW. And I think at that time we even actually supplemented. I mean, it was almost like above and beyond. I don't know what the status is today, but maybe that is something that we ought to make sure if it is in place today.

Well, Chief, we thank you for your testimony today, and we all appreciate the fact that you have got a tough job, you and your staff. And you hear Mr. Bishop talking about the SWAT team escorting him, and in general we feel pretty safe, and sometimes we kind of take it for granted.

Mr. BISHOP. It was a little scary.

Mr. CRENSHAW. But again, thank you for what you do. Thank you for being here today.

This meeting will be adjourned, until tomorrow at 10 a.m. when we hear from the Architect of the Capitol.

Chief MORSE. Thank you, sir.

[Questions submitted for the record by Chairman Crenshaw follow:]

U.S. Capitol Police Questions For the Record – Majority
OVERTIME TO SUPPORT ARCHITECT OF THE CAPITOL CONSTRUCTION PROJECTS

Last year, the conferees directed the Architect of the Capitol to reimburse the Capitol Police for the cost of overtime associated with construction projects beginning in fiscal year 2013.

- *What progress has been made in formulating a memorandum of understanding between the two agencies to establish the appropriate mechanisms necessary to implement this reimbursable process?*

The United States Capitol Police (USCP) and Architect of the Capitol (AOC) met in February to discuss the parameters and issues of establishing a memorandum of understanding (MOU) and have begun working on a draft. Work continues to develop the draft MOU and the necessary procedures and work products with the intent to complete the MOU by the end of April 2012, and have it in place for FY 2013.

TRAINING

Chief, in your budget request and your testimony here today, you have referenced an emphasis on training. I understand that you have reduced the training provided to sworn and civilian employees over the last two years.

- *Would you please explain how this has impacted your ability to perform your mission?*

Over the past two years, the Department has emphasized conducting only the most minimum basic levels of training necessary for our employees to carry out their jobs. This includes basic firearms proficiency for 4 hours per year, a reduction from the previous level of 16 hours per year. The reduction in firearms training directly impacts our ability to meet our mission. Firearms proficiency, similar to many other muscle memory skills, degrades over time. Reductions in training to firearms qualification lead directly to lower proficiency (ability), which increases risk and liability. We basically perform proficiency testing without teaching new tactics or skills. While we do encourage our employees to shoot on the range periodically in an informal open range situation, we do not take employees out of the field for the full 16 hours per year because of the cost to backfill them (with overtime) due to mission requirements. Over the course of time, this lack of training will begin to erode basic marksmanship skills and our ability to counter threats due to a lack of tactical shooting training. This particularly impacts officers with weaker shooting competency. It takes these officers more time, at more expense, to ensure they meet minimum qualification standards. This also increases costs in ammunition and lost work time while employees are remediated at the Firearms Range.

Additionally, we have focused on re-certification in the ASP Baton and in OC “pepper” spray. These two less lethal tools must be instructed according to manufacturer specifications for our officers to be covered from a liability standpoint and require specific lesson plans to be followed, necessitating taking employees offline for training. More importantly, these tools provide our officers with more options to better enable them to deal with potentially violent situations without having to escalate to using deadly force. Without this training, our employees are unable to carry the weapons, since they are not certified in their use. This impacts our ability to ensure officers use appropriate force to the given situation.

Additionally, we have focused on basic CPR certification, something that the Congress and public expect police officers to be able to carry out for life safety reasons. CPR training is an 8-hour labor intensive class which requires a low instructor to student ratio. Therefore it takes a great deal of time to be able to train large numbers of officers.

Active Shooter Training is also critical to our ability to respond to rapidly developing, potentially deadly situations. Without the ability to respond to neutralize an active armed assailant, the Congress would be at higher risk to an incident that could have catastrophic consequences. Training provides critical skills for responding to armed assailant situations. Continued degradation of skills because of postponement of

training in areas of handcuffing, physical skills, and security screening recertification also puts our officers and the Complex at greater risk to physical injury or worse based on the threats we face. Additionally, the Department exposes itself to potential liability if officers are not trained to meet the basic duties of their jobs, following the latest practices, complying with legal updates, and following other policy and service improvements that are subject to change periodically.

• Have you been able to provide your sworn personnel with the critical training they require to perform their duties?

The Department has been able to provide recruit officers with the requisite mandatory training needed to fulfill their job duties. However, in the area of in-service training, there has been a greater challenge providing critical training. In order to meet the mission, the Department has looked for creative ways to provide refresher training through ad-hoc roll calls, online training, and other methods that do not create potential overtime issues or the need to backfill a position. While these short-term methods have allowed the Department to continue to maintain operational readiness, they do not provide the necessary skill refreshment to sustain the workforce over the long-term. The more years that pass in which our employees do not receive in-service training, our ability to respond to current threats diminishes. While we do leverage technology as much as possible, it is impossible to take officers offline to conduct severely needed refresher training. Even the best and most efficient officers need to engage in refresher training to keep their professional edge. Over the last several years, we undertook to retrain all field personnel with revised security screening training. This program provided 16 hours of re-training in the area of package inspection, x-ray machine training, magnetometer training, and trace element detection. Without comprehensive refresher training of this nature, we run the increased risk of having a breach of security, and potential inconsistency across the various divisions/bureaus in the application of security screening.

• The Legislative Branch overall has reduced training. In light of that, why is the training you are requesting in your budget considered to be essential and critical?

Over the last several years, the Department has requested funding for only the most crucial mandatory and top priority training programs. Comparing police tactical training to other Legislative Branch agencies is a difficult comparison because so much of our training requires our employees to perfect skills that have inherent liability. For instance, the use of deadly force with weapons or less lethal weapons require proficiencies that involve high liability. If we fail to provide proper lifesaving techniques or employ the incorrect type or use of force, people can be severely injured or die. Failure to respond appropriately to critical incidents can cause death or serious injury to members of the Congressional community.

Since policing is an inherently dangerous task, all police departments need to be prepared to respond quickly and correctly to incidents. The Congress expects a correct response, as does the public. By failing to annually provide critical in-service training, we significantly increase the risk. We have endeavored to prioritize the critical training programs so that we maintain basic skills.

• In your request, you are asking for funding to support opportunities for additional training, primarily for sworn personnel. Please explain to the Committee what these funds would be used for if they are provided.

On an annual basis, the Department conducts global threat assessments and environmental scans to determine the skills requirements for the Department. As previously mentioned, the Department has implemented its training programs over the past few years to focus on the essential basic skills. With additional funds provided per our request, the Department would focus on addressing the areas that have been curtailed over the past few years, such as enhancing the firearms training, ensuring less-lethal weapons certifications, continuing Active Shooter efforts, security screening refresher training, and to the extent funding permits, other areas that meet emerging threats to the Capitol Complex.

RADIO MODERNIZATION

Chief, this Committee has continued to provide its support and oversight for the Radio Modernization Project, in order to ensure the Department has this critical tool available to you as you protect this institution.

Would you please give us an update on where we are with this effort and the current estimated date for bringing the system online?

Our best case scenario for when the radio system will be operational based on current information is spring of 2013; the most probable case is summer of 2013 and the worst case is fall 2013 or winter 2014. There are many variables in play that preclude us from making a better estimate at this time. Some of those variables include: (1) date when the Best Value contract (Infrastructure, Components, and Subscriber Units) is awarded; (2) whether or not there is a vendor protest (this could cause a 3 or 4 month delay and could cause issues with the expiration of funds); (3) how fast can the selected vendor deliver the radio equipment (vendor will have up to six months); (4) how long will it take to do radio system optimization once the system has been installed; and (5) are there any unknown or unanticipated technical issues. Our "best case" estimate is based on the Best Value contract being awarded in May 2012, no vendor protest and most equipment being delivered early during the 6 month delivery window. Once the Best Value contract is awarded and the threat of a vendor protest has expired a much better project completion estimate can be provided.

Because this Committee remains committed to the successful completion of this critical program and realizing that the majority of funds provided for the program will expire at the end of the fiscal year, I would like to have the Department provide specific details on the project's status. This written response should include specific details on the status of each subproject or activity; the obligations and execution of the funding provided; an overview of any costs that have exceeded projections; the status of remaining funding; and a summary of any issues or challenges facing the Department in this effort. Please include any specifics related to the NAVAIR portions of the project in your response. This Committee will be requesting similar information from the Architect of the Capitol related to their activities in support of the project.

1. Specific details on the status of each sub-project or activity:

The Radio Modernization Project is subdivided into two major parts: (1) the infrastructure work needed to support the radio system, and (2) the actual acquisition, installation, testing and optimization of the radio equipment.

The infrastructure portion is made up of eight sub-projects managed by AoC, NAVAIR and USCP. The NAVAIR and USCP sub-projects are dependent on the pace of work and completion of the AoC sub-projects. The eight infrastructure sub-projects are: the Alternate Computer Facility (AoC sub-project), Mirror Site - Verizon (AoC sub-project), Outdoor Fiber (USCP sub-project), Indoor Infrastructure (AoC sub-project), Indoor Coax Wiring (NAVAIR sub-project), Indoor Fiber (USCP sub-project), POP/Equipment Room Infrastructure (AoC sub-project), and Outdoor Repeater Sites / Exterior Antennas (AoC sub-project). The information provided is as of March 27, 2012.

With the exception of a few minor punch list items, AoC construction is complete on the Alternate Computer Facility (ACF).

The Mirror Site at the Verizon Building construction work is completed. The only remaining AoC work is installing a cable tray on the roof to the antenna/flagpole site and completing the duct banks. The Verizon-to-Fairchild duct bank is completed, as well as the Capitol Power Plant-to-Verizon duct bank.

Overall, the Outdoor Fiber work is 95% complete. The Fairchild-to-Verizon fiber pull has been completed. Only 3 fiber pulls are remaining: Capitol Power Plant-to-Verizon (anticipated completion by March 30, 2012), duct bank to the Thurgood Marshall Building (anticipated completion by the end of June 2012), and build out of the Cannon Pop room (work is 98% complete).

Indoor Infrastructure comprises the installation of conduit between Remote Units (RUs) and DAS indoor antenna locations and providing power to RUs. Work installing mounting boxes for DAS antennas for the Capitol Building has been completed. Conduit installation is currently occurring in the Adams Building. Power installation work has occurred in seven campus buildings with work currently being performed in the Capitol Building. This work is being done separately to enable Coax Wiring and Indoor Fiber work to stay on schedule. Overall, AoC should complete this sub-project work by summer 2012.

Overall, Indoor Coax Wiring is approximately 66% complete, with 1213 of 1825 coax cables installed. Active work continues in the Madison and Adams Library of Congress buildings. This sub-project consists of installing copper wiring (coax) from 425 Remote Units to 1382 indoor DAS antennas. NAVAIR should complete this sub-project by September 2012.

Overall, Indoor Fiber is 58% completed. The Alternate Computer Facility is 99% complete and the Mirror site is 80% complete. Active work is being conducted in the Hart and Dirksen Senate Office Buildings. This sub-project will do the fiber work within the ACF and Mirror site spaces and from where the outside fiber enters campus buildings to 425 Remote Units within the buildings, with an anticipated completion in early autumn 2012.

The below table is a building by building summary status of Indoor Infrastructure, Indoor Coax Wiring, and Indoor Fiber.

 Signifies work cannot progress farther until DAS equipment is received:

Building	AoC Indoor Infrastructure	AoC Power/UPS	NAVAIR Coax Wiring	USCP Indoor Fiber	Status
Capitol	98%	85%	87%	6%	94% of splitters. 49% (81 of 163) of antennas.
Cannon HOB	98%	88%	96%	38%	100% of splitters. 96% (84 of 87) of antennas.
Longworth HOB	99%	56%	81%	50%	NAVAIR installed 91% of splitters. 83% (100 of 121) of indoor antennas.
Rayburn HOB	95%	20%	88%	64%	NAVAIR installed 70% of splitters. 58% (108 of 186) of indoor antennas.
Ford HOB	95%		77%	98%	NAVAIR installed 76% of splitters. 95% (73 of 77) of indoor antennas.
Russell SOB	95%	75%	95%	81%	NAVAIR installed 95% of splitters. 81% (63 of 78) of indoor antennas.
Dirksen SOB	95%	90%	100%	75%	NAVAIR installed 94% of splitters. 97% (57 of 59) antennas.
Hart SOB	95%	90%	97%	75%	NAVAIR installed 90% of splitters. 98% (71 of 75) antennas.
Madison LOC	100%		75%	20%	NAVAIR installed 75% of splitters. 85% (129 of 151) of indoor antennas.
Jefferson LOC	9%			20%	
Adams LOC	68%		12%	20%	NAVAIR installed 3% of splitters and 16% (18 of 114) of indoor antennas.
USCP HQ	100%		93%	98%	NAVAIR installed 100% of splitters. 100% (21 of 21) of indoor antennas.
Fairchild	95%		78%	98%	NAVAIR installed 100% of splitters. 93% (26 of 28) of indoor antennas.
Capitol Power Plant	100%		93%	98%	NAVAIR installed 83% of splitters.

Building	AoC Indoor	AoC	NAVAIR	USCP	Status
	Infrastructure	Power/UPS	Coax Wiring	Indoor Fiber	
					77% (23 of 30) of antennas.
Senate Garage	95%			48%	
East Garage				81%	
West Garage					Will not start until renovation complete.
K9 Facility					
Offsite Delivery					
Botanic Gardens	100%			13%	
67 K Street	100%				
Cheltenham Bldg 31	95%				
Cheltenham Bldg 12	95%				

The POP/Equipment Room Infrastructure is for constructing 9 POP (Point-of-Presence) / Remote Head-end equipment rooms and the renovation of the former USCP Headquarters Data Center for use as a Head-end equipment room. Four of the nine POP rooms have been completed by AoC, with another two nearly complete. The below table contains the status of each POP room. Renovation of the former USCP Headquarters Data Center will start in May 2012 after all the data center equipment currently in the space is removed.

POP Room Building	AoC Construction	USCP Indoor Fiber	Status
Hart Garage	100%	100%	
Russell Attic	99%	100%	Steps have been installed.
Capitol Power Plant	100%	100%	
Rayburn G-3	100%	100%	
Capitol ST-88	100%	100%	
Madison	38%	100%	
Adams	65%	100%	
Jefferson	99%	100%	Card reader needs to be installed.
Cannon	98%	25%	

There are three campus outdoor repeater/antennas sites and five off-campus outdoor repeater/antennas sites. The three campus sites are the Verizon Building, the Capitol Building, and the Thurgood Marshall Building. The funding to support the Verizon Building was approved in OP 9. The Statement of Work is completed and the Memorandum of Understanding with the AoC to allow the transfer of funds has been drafted and under review with AoC. In the Capitol Building, the attic antenna room is 90% complete and the AoC is developing a new cost estimate based on the new Statement of Work. Funding to support the Thurgood Marshall Building was approved in OP 9. Review of the Statement of Work occurred on March 2, 2012 and the AoC is developing a new cost estimate.

There are five off-campus outdoor repeater/antennas sites to support coverage in the 10x10 mile District of Columbia diamond and out to FLETC. The below table contains the status of each site. One site, FLETC, Cheltenham, Maryland will require a Memorandum of Understanding (MOU) between USCP and FLETC, Cheltenham, Maryland. The remaining four sites will require leases negotiated by the AoC. Amendments 3 to the DAS/Repeater Site MOU, covering the leasing cost, has been signed by both AoC and USCP, the funding is being transferred to AoC. Follow on Amendments are being drafted covering the infrastructure work for the repeater sites.

Location	Status
FLETc, Cheltenham, Maryland	AoC will provide services to complete infrastructure work for this site. MOU with FLETc has been drafted and is currently under review.
East Side: North Barnaby	AoC conducting final lease negotiations with American Towers. Proposed annual rent is \$34,300.
West Side: Site #1 Arlington Garden City	AoC conducting final lease negotiations with American Towers. Proposed annual rent is \$45,780.
South Side: Site #2 Alexandria House Condominiums	AoC is negotiating final lease with Condo Board. After consulting with Condo Board attorney, need to change the lease into an easement documents since the association charter and bylaws do not grant the board the right to enter into leases. The proposed annual rent is \$180,000.
North Side: Hughes Towers (DC Govt.)	All parties have agreed to the Memorandum of Understanding language. The various exhibits (attachments) are being prepared for inclusion so that the document can be formally signed. Proposed annual rent is \$240,000.

The portion of the project dealing with acquisition, installation, testing and optimization of the radio equipment is primarily the responsibility of NAVAIR. The two active sub-projects of this part of the project are the awarding of contracts (RFPs) and the installation of the indoor Distributed Antenna System (DAS) equipment.

Four of five RFPs have been released to date and three of them have been awarded. The Best Value RFP is currently undergoing technical evaluation. The below table contains the status of each RFP:

RFP	RFP Dates	Status
Transmitter Combiners and Receiver Multi-couplers	<u>Estimate RFP Release:</u> April 2012	NAVAIR will be sole sourcing the crystal filters and will then supply the crystal filters as Government Furnished Equipment (GFE) to the vendor who is awarded the transmitters and combiners contract.
Infrastructure Components and Subscriber Units	<u>RFP Released:</u> May 31, 2011 <u>Estimate Award:</u> June 5, 2012	Formal letters were sent to vendors on March 6, 2012 requesting additional technical information. Vendor responses are due March 28, 2012. Technical evaluation should commence April 2, 2012 and be completed by April 20, 2012. This will be a "Best Value" contract.
Distributed Antenna System (DAS)	<u>Awarded:</u> September 14, 2011	The actual cost for the DAS contract is \$4,934,400 and was awarded to FiberSpan.
Interoperability Equipment	<u>Awarded:</u> August 17, 2011	Awarded for \$243,466 to Communications Applied Technology.
System Antennas	<u>Awarded:</u> April 5, 2011	This is for indoor antennas. Award made for \$309,474 to MP Antennas. All 1,400 indoor antennas have been delivered.

In terms of the Indoor DAS approximately 61% of indoor DAS antennas (846 of 1382) and 64% of splitters (272 of 425) have been installed throughout the campus. This sub-project consists of installing Remote Head-end Units (RHU) (one per building); approximately 425 Remote Units (RU) and splitters; and 1382 indoor DAS antennas. Until the Best Value RFP is awarded this sub-project cannot progress farther than installing indoor antennas and splitters.

2. The obligations and execution of the funding provided:

The table below summarizes the status of appropriated funds for this project:

Appropriation	Amount	Obligated via OP	Remaining
FY 07 No-Year	\$10,000,000	\$8,327,135	\$1,672,865
FY 09 Sup 4-Year (expires 9/30/12)	\$71,606,000	\$71,606,000	\$0
FY 10 Sup 3-Year (expires 9/30/12)	\$12,956,000	\$10,005,012	\$2,950,988*
FY 11 GE 1-Year (expired 9/30/11)	\$7,192,000	\$7,192,000**	\$0
FY 12 GE 3-Year (expires 9/30/14)	\$2,400,000	\$0	\$2,400,000***
Total	\$104,154,000	\$97,130,147	\$7,023,853

* An additional \$1,000,000 is being returned by NAVAIR and will be available for re-obligation in OP 10.

** These funds were not subject to a formal Obligation Plan; however the Committees were provided a plan of their intended use.

*** The \$2.4m is planned for operation and maintenance costs unless needed for implementation.

This next table outlines the amounts of appropriated funding that was allocated to each Obligation Plan:

OP #	Date	For	Amount	Comments
9	Jan-12	NAVAIR PM, NAVAIR Labor, Outdoor Repeater Sites, Furniture, Inside Fiber, RU Racks, UPS.	\$8,204,840	
FY 2011GE		Dispatcher Consoles, Special Antennas, NAVAIR PM, ACF Site, Mirror Site, Thurgood Marshall Duct Bank, Outside & Inside Fiber, Radio Tools.	\$3,656,878	\$7,192,000 of FY 2011GE funding was provided. To ensure non-expiring funding would be available in FY 2012 to support the project, exchanges or "swaps" were made with multi-year funding approved in early OPs. Two exchanges were made (\$620,431 of FY 09 funding from OP#5 and \$2,914,691 of FY 09 funding from OP#7), this used all of the expiring FY 2011 GE funding and made available over \$3.5 million of FY 2009 Supplemental funding for use in FY2012.
8	Jan-11	POP/Remote Head End equipment rooms, Outdoor Repeater Sites	\$908,160	Original amount was \$1,036,000 however \$127,840 of FY 2009 4-Year funding was de-obligated in OP#9
7	Dec-10	DAS equipment, ACF site, Mirror site, Furniture, Inside Fiber.	\$11,078,123	Original amount was \$18,934,929 however \$7,704,681 of FY 2010 3-Year funding, and \$152,125 of FY 2009 4-Year funding were de-obligated in OP#9
6	Aug-10	NAVAIR (BIG BUY) Best Value RFP, NAVAIR PM, NAVAIR Labor	\$39,797,400	
5	Jul-10	Indoor Equipment, Labor, Mirror Site, Outdoor Repeater sites, Inside Fiber	\$11,971,350	
4	Mar-10	NAVAIR PM, Outside Fiber, USCP PM	\$9,888,896	
3	Sep-09	Mirror Site	\$3,505,000	
2	Jan-09	NAVAIR Cost Analysis & System design	\$4,020,000	
1	Sep-08	ACF Site	\$4,099,500	
		Total	\$97,130,147	

The following table shows how funding from each appropriation was allocated to each Obligation Plan:

	FY 2007 No-Yr \$10,000,000	FY 2009 Sup 4-Yr \$71,606,000	FY 2010 Sup 3-Yr \$12,956,000	FY 11 One-Yr \$7,192,000	Total \$101,754,000
OP 1	\$4,099,500				\$4,099,500
OP 2	\$4,020,000				\$4,020,000
OP 3		\$3,505,000			\$3,505,000
OP 4		\$9,888,896			\$9,888,896
OP 5		\$11,350,919		\$620,431	\$11,971,350
OP 6		\$39,797,400			\$39,797,400
OP 7		\$2,912,113	\$5,251,319	\$2,914,691	\$11,078,123
OP 8	\$207,635	\$700,525			\$908,160
FY 2011 GE				\$3,656,878	\$3,656,878
OP 9		\$3,451,147	\$4,753,693		\$8,204,840
Total	\$8,327,135	\$71,606,000	\$10,005,012	\$7,192,000	\$97,130,147

The following tables are a further break down, by agency, of the status of project funds that have been obligated via OP:

USCP

Appropriation	Obligated via OP	Total Commitments by USCP	Total Obligated	Expended	Unexpended at this time
FY 07 No-Year	\$0	\$0	\$0	\$0	\$0
FY 09 Sup 4-Year	\$12,709,405	\$12,452,189	\$12,452,189	\$9,917,472	\$2,791,933
FY 10 Sup 3-Year	\$394,000	\$394,000	\$394,000	\$0	\$394,000
FY 11 GE 1-Year	\$3,878,691	\$3,878,691	\$3,878,691	\$3,422,329	\$456,362
Total	\$16,982,096	\$16,724,880	\$16,724,880	\$13,339,801	\$3,642,295

NAVAIR

Appropriation	Obligated via OP	Funds Transferred	Total Commitments by NAVAIR	Total Obligated by NAVAIR	Expended	Unexpended at this Time
FY 07 No-Year	\$4,020,000	\$4,020,000	\$4,020,000	\$4,020,000	\$4,020,000	\$0
FY 09 Sup 4-Year	\$47,063,144	\$47,063,144	\$32,114,207	\$5,692,294	\$4,209,858	\$42,853,286
FY 10 Sup 3-Year	\$7,621,319	\$7,280,319	\$6,286,393	\$6,286,393	\$1,580,358	\$5,699,961
FY 11 GE 1-Year	\$2,114,000	\$2,114,000	\$2,114,000	\$2,114,000	\$1,852,920	\$261,080
Total	\$60,818,463	\$60,477,463	\$44,534,600	\$18,112,687	\$11,663,136	\$48,814,327

AoC

Appropriation	Obligated via OP	Funds Transferred	Total Commitments by AoC	Total Obligated by AoC	Expended	Unexpended at this Time
FY 07 No-Year	\$4,307,135	\$4,307,135	\$4,099,480	\$4,099,480	\$4,099,480	\$207,655
FY 09 Sup 4-Year	\$11,833,451	\$8,883,384	\$7,675,257	\$7,675,257	\$7,581,910	\$1,301,474
FY 10 Sup 3-Year	\$1,989,693	\$0	\$0	\$0	\$0	\$0
FY 11 GE 1-Year	\$1,199,309	\$1,199,309	\$1,199,033	\$1,199,033	\$1,199,033	\$276
Total	\$19,329,588	\$14,389,828	\$12,973,770	\$12,973,770	\$12,880,422	\$1,509,406

3. An overview of any costs that have exceeded projections:

	Cost Estimate Mar 2010 Est 30% Discount	Current Estimate or Actual Cost	Variance to Date	Comments
NAVAIR				
Equipment Hardware Costs	\$14,661,176	\$14,661,176	\$0	Best Value contract has not been a
Indoor Coverage Equip. & Installation	\$16,414,471	\$7,709,790	\$8,704,681	\$7,704,681 de-obligated in OP#9. \$ to be de-obligated in OP#10 from D Antenna System RFP \$9,704,681 co
Subscriber Equipment	\$18,039,936	\$18,039,936	\$0	Best Value contract has not been a
Test Equipment Cost	\$800,000	\$800,000	\$0	Best Value contract has not been a
Dispatcher Consoles - 2 additional	\$0	\$110,000	(\$110,000)	Accommodate Mission Assurance B needs at Mirror Site.
Special Antennas	\$0	\$67,000	(\$67,000)	\$10,000 for 2 exit Sign Antennas to some antennas in US Capitol, \$42,0 Flag pole Antennas and 2 non-ante- poles to preserve the integrity of th Capitol. \$15,000 for 10 Panel Anter placed in cramped areas in US Capi
Additional Filtering	\$0	\$50,000	(\$50,000)	Change in design to mitigate electri interference on Capitol Hill.
Professional Services	\$14,623,561	\$20,455,561	(\$5,832,000)	Increased PM complexity/efforts; n requires 6.25 FT Employees, \$1,937
21- Project Management (PM)	\$1,534,091	\$6,379,091	(\$4,845,000)	December 31, 2011, & \$2,128,000 I January 1, 2011 through April 30, 21 \$780,000 for May 2013 to October
Design Support for Installation	\$350,000	\$350,000	\$0	
EVM Project Manager	\$250,000	\$250,000	\$0	
CVC DAS Install Labor	\$500,000	\$500,000	\$0	
Cost Analysis	\$200,000	\$200,000	\$0	
22 - Design Engineering	\$4,000,000	\$4,000,000	\$0	
24 - Acceptance Testing	\$1,477,273	\$1,886,273	(\$409,000)	Estimated over run cost for additio Intermod and RF Analysis being per
25 - Training	\$284,091	\$284,091	\$0	
29/30 - Documentation	\$909,091	\$909,091	\$0	
Equipment Hardware Labor	\$1,438,239	\$1,438,239	\$0	
Indoor Coverage Equipment Labor	\$2,457,273	\$3,035,273	(\$578,000)	NAVAIR's cost estimate omitted the installation labor from the "RU to S all Indoor DAS buildings.
Subscriber Equipment Labor	\$1,023,011	\$1,023,011	\$0	
NAVAIR Integration	\$208,333	\$208,333	\$0	
Optimization	\$172,159	\$172,159	\$0	
NAVAIR Sub-Total	\$64,539,144	\$61,893,463	\$2,645,681	
USCP				
Facility Furniture	\$484,450	\$680,450	(\$196,000)	Additional Dispatcher station chairs security/surveillance equipment; At Mirror Site.
USCP Outside Fiber	\$8,199,430	\$8,752,430	(\$553,000)	Mirror Site redundant pathways, ar telecom equipment location build c in the Hart, Russell, Cannon, CPP, J Capitol Buildings.
Tunnel Cable Tray (for outside fiber)	\$775,000	\$775,000	\$0	
USCP Inside Fiber	\$5,987,000	\$6,105,000	(\$118,000)	Fiber run to the roof of the ACF site indoor Fiber at Botanical Garden fo Distributed Antenna System that w in the original estimate.
LOC Closet RU Racks & Labor	\$394,000	\$394,000	\$0	
USCP Project Mgmt. Contractors	\$1,000,000	\$849,466	\$150,534	PM complexity is greater in order to funding and most GAO oversight de
Radio Tools & Equipment	\$50,000	\$50,000	\$0	
Warranty	\$1,000,000	\$1,000,000	\$0	
CVC DAS Equipment	\$500,000	\$500,000	\$0	
Repeater Site (Cheltenham)	\$60,750	\$60,750	\$0	
USCP Sub-Total	\$18,450,630	\$19,167,096	(\$716,466)	*a variance chart for ADC activities provided upon request.

USCP & NAVAIR Total	\$82,989,774	\$81,060,559	\$2,709,215
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4. The status of remaining funding:

The table below summarizes the funds remaining to support the project:

Appropriation	Remaining
FY 07 No-Year	\$1,672,865
FY 10 Sup 3-Year (expires 9/30/12)	\$2,950,988
FY 10 Sup 3-Year (expires 9/30/12)	\$1,000,000*
FY 10 Sup 3-Year (expires 9/30/12)	\$449,740**
FY 12 GE 3-Year (expires 9/30/14)	\$2,400,000
Total	\$8,473,593

* NAVAIR is returning an additional \$1,000,000 from the DAS contract which will be formally de-obligated in OP 10.

** AoC will have a \$449,740 surplus with the UPS purchase, which will be formally de-obligated in OP 10. This will leave \$4,400,728 of FY 2010 Sup 3-Year funding remaining to fund OP 10 requested items.

Our financial strategy for moving forward with the project is to use the remaining FY 2010 Supplemental funding for FY 2012 expenses; the FY 2012 GE 3-Year funding for those known and unknown expenses that will occur in FY 2013 and FY 2014; and the remaining FY 2007 No-Year funding as needed in FY 2013 and for the out-years to support the increase operation and maintenance cost of the new radio system that is not covered in annual appropriations (due to flat budgets).

5. A summary of any issues or challenges facing the Department in this effort:

The Department has the following challenges that could impact the schedule and/or budget:

- **Date of the Best Value contract (Infrastructure, Components, and Subscriber Units) award.** The Best Value award may not happen until June 2012 (worst case). Until the Best Value contract award is made, any estimates on the project schedule are purely speculative. Also many project planning issues (e.g. the migration plan, operation and maintenance budget, etc.) cannot be completed until the selected vendor is known. Other potential project impacts include a possible vendor protest which could delay the project 3 or 4 months and could cause issues with the expiration of funds (funds expiring September 30, 2012) which could hinder our ability to redirect any savings to other parts of the project.
- **Funding issues.** Most of the available project funding expires on September 30, 2012. The challenge becomes the Department’s ability to use these funds for radio project related activities before they expire. The date the Best Value contract is awarded will affect the outcome. A second funding challenge facing the Department is the availability of funds sufficient to cover all project costs, both known and unknown, in FY 2013.
- **Manufacture and delivery time for the Best Value equipment.** After award, the vendor will have up to 6 months to deliver all the equipment. The project schedule will be impacted depending on how fast and when equipment is delivered.
- **Cost to complete the project.** The Department continues to work with its partners, NAVAIR and the Architect of the Capitol to provide a final cost estimate for completing the project. This could have potential impact to both budget and schedule.

- **The Jefferson Library of Congress Building.** Due to the ornate interior and access issues with the Jefferson building, the entire indoor DAS design for the Jefferson Building may have to be modified or re-designed, impacting both cost and schedule. The AoC/NAVAIR/USCP team is currently assessing the situation.
- **Obtaining off-campus antenna sites.** Though, the Architect of the Capitol is currently in final lease negotiations with all the off-campus sites, until the leases are signed a risk remains to the project. Once the leases are signed, the AoC must then complete the required infrastructure work at each site by early fall 2012, so that the sites will be ready to receive the radio equipment when it arrives.
- **Time required for radio system optimization.** It is unknown how long it will take for NAVAIR to optimize the new radio system, so that it is operating sufficiently to “go live.” A placeholder period is factored into the schedule, however, if the optimization period runs longer than estimated, the go live date could be delayed. “Go Live” means that officers are trained and issued the handheld digital radios and that mobile digital radios are installed in the vehicles. The system is operational and live when officers are communicating on the digital system.
- **Unknown or unanticipated technical issues.** If after installation of the radio system there are technical issues that become apparent during testing and optimization, then we will have to address each as appropriate, which could affect budget and schedule.

[Questions for the record submitted by Ranking Member Honda follow:]

**Ranking Member Honda
U.S. Capitol Police Questions For the Record**

Overtime

1. How much of the 38.4 million requested for overtime is to support the 2013 inauguration?

Of the \$38.4 million requested for overtime, \$1.617 million has been requested for overtime for the 2013 inauguration.

- How was the estimate for inauguration calculated?

The overtime calculation for the Inauguration is initially based on the last Inauguration, but was adjusted based on lessons learned. The overtime requested for the 2009 inauguration was 37,152 hours and actual overtime for the 2009 inauguration was just under 20,000 hours (19,621). The request for the 2013 inauguration is 28,000 hours. We have requested additional overtime this year over actuals to mitigate some of the issues from the last Inauguration (e.g. the earlier arrival times of attendees). The overtime rate projected for FY13 is \$57.75, so it results in a dollar request of \$1,617,000 (28,000 @ \$ 57.75).

2. What percentage of the police sworn officers received overtime payments in fiscal year 2011?

Of the 1775 sworn staffing levels of the Department, 87% of the officers received cash overtime payments in fiscal year 2011. If you include overtime earned as compensatory time, 94% of the officers received overtime payments. It should be noted that, of the 87% that received cash overtime payment, 13% of those officers worked less than 40 hours of overtime for the entire year.

Posts

3. How many posts were created in calendar year 2011?

The USCP did not add any new permanent posts in CY 2011. However, there were some temporary additions: Two additional protective details were required in CY 2011.

4. How many posts were closed in calendar year 2011?

The following posts were closed in CY 2011: Madison Tunnel to House Office Buildings (between Cannon and Madison Buildings), H-114 - House Majority Whip, H-204 - House Minority Leader, H-239 - House Majority Leader, S-208 - House Minority Whip, S-230 - Senate Minority Leader and House Page Dorm.

Threat based decisions

5. How does USCP prioritize requests from various constituents while trying to operate under a risk based model? Furthermore is it possible to identify how much of the request is made at the request of USCP stakeholders? If so, how much is requested based on stakeholder needs and requests?

As a matter of protocol, the U. S. Capitol Police continuously evaluates the threat to the Capitol Complex and the security requirements based on the risk present by the "accessibility" of the post. We apply a threat-based model to any security post to identify threat and risks

(vulnerabilities) presented by the post. The operational theory used is to provide the most coverage at posts which have the greatest risk.

Post requirements that are required to facilitate Congressional business, or those designed to enhance the visitor/constituent experience are also assessed for vulnerabilities based on threats and risks. The USCP has reviewed and regularly re-evaluates every post for the criticality of security and the need to facilitate the business of Congress. All requests for additional post creation are reported to the appropriate stakeholders as required by statute. The Department discusses the post and all relevant costs with the requesting stakeholder, as well as the Capitol Police Board. It should be noted that as security professionals, the USCP can provide guidance, cost estimates and frequency of use statistics (pedestrian counts, etc.), but understands our role to balance our presence and access restrictions against the inherent need for the public to readily access their representative government. As a service and security provider, the Department provides guidance, advice and enforcement action based on direction from stakeholders. Any costs are subsequently absorbed by the USCP or additional resources are requested within established means. These posts are considered in the totality of all posts without regard to priority as they are required and approved by stakeholders.

Union Square

6. Does USCP have a change in requirements now that Union Square is under the jurisdiction of the Architect of the Capitol?

Currently, we do not believe there would be a need for additional sworn or civilian resources within the USCP. However, if technical corrections are made that change the roles and responsibilities of the Department, we may require additional resources to absorb that workload. For example, in order to collect funds for the public for Union Square, there would be an impact to our Office of Financial Management (OFM). Based on the average time it takes to process permits, the cost to the USCP for OFM's financial services would be approximately \$183 per permit (based on 250 in a year, possibly over \$45,000). Additionally, there would be an impact of diverting existing OFM personnel to process permit collections from their core mission responsibilities. Lastly, there may be costs from the role the Mission Assurance Bureau plays in the permit application process and monitoring of increased and potentially larger and more complex commercial and other special events.

Radio Modernization

7. Please provide an update of the Radio Modernization program, including when it will be operational.

The Radio Modernization Project is subdivided into two major parts: (1) the infrastructure work needed to support the radio system; and, (2) the actual acquisition, installation, testing and optimization of the radio equipment.

The infrastructure portion is made up of eight sub-projects managed by the Architect of the Capitol (AoC), NAVAIR and USCP. The NAVAIR and USCP sub-projects are dependent on the pace of work and completion of the AoC sub-projects. The eight infrastructure sub-projects are the: Alternate Computer Facility (AoC sub-project), Mirror Site - Verizon (AoC sub-project), Outdoor Fiber (USCP sub-project), Indoor Infrastructure (AoC sub-project), Indoor Coax Wiring (NAVAIR sub-project), Indoor Fiber (USCP sub-project), POP/Equipment Room Infrastructure (AoC sub-project), and Outdoor Repeater Sites /Exterior Antennas (AoC sub-project). The information provided is current as of March 27, 2012.

With the exception of a few minor punch list items, AoC construction is complete on the Alternate Computer Facility (ACF).

The Mirror Site at the Verizon Building construction work is completed. The only remaining AoC work is installing a cable tray on the roof to the antenna/flagpole site and completing the duct banks. The Verizon-to-Fairchild duct bank is completed, as well as the Capitol Power Plant-to-Verizon duct bank.

Overall, the Outdoor Fiber work is 95% complete. The Fairchild-to-Verizon fiber pull has been completed. Only 3 fiber pulls are remaining: Capitol Power Plant-to-Verizon (anticipated completion by March 30, 2012), duct bank to the Thurgood Marshall Building (anticipated completion by the end of June 2012), and build out of the Cannon Pop room (work is 98% complete).

The indoor Infrastructure comprises the installation of conduit between Remote Units (RUs) and DAS indoor antenna locations and providing power to RUs. Work installing mounting boxes for DAS antennas for the Capitol Building has been completed. Conduit installation is currently occurring in the Adams Building. Power installation work has occurred in seven campus buildings with work currently being performed in the Capitol Building. This work is being done separately to enable Coax Wiring and Indoor Fiber work to stay on schedule. Overall, AoC should complete this sub-project work by summer 2012.

Overall, Indoor Coax Wiring is approximately 66% complete, with 1213 of 1825 coax cables installed. Active work continues in the Madison and Adams Library of Congress buildings. This sub-project consists of installing copper wiring (coax) from 425 Remote Units to 1382 indoor DAS antennas. NAVAIR should complete this sub-project by September 2012.

Overall, Indoor Fiber is 58% completed. The Alternate Computer Facility is 99% complete and the Mirror site is 80% complete. Active work is being conducted in the Hart and Dirksen Senate Office Buildings. This sub-project will do the fiber work within the ACF and Mirror site spaces and from where the outside fiber enters campus buildings to 425 RUs within the buildings, with an anticipated completion in early autumn 2012.

The below table is a building-by-building summary status of Indoor Infrastructure, Indoor Coax Wiring, and Indoor Fiber.

Signifies work cannot progress farther until DAS equipment is received:

Building	AoC Indoor Infrastructure	AoC Power/UPS	NAVAIR Coax Wiring	USCP Indoor Fiber	Status
Capitol	98%	85%	87%	6%	94% of splitters. 49% (81 of 163) of antennas.
Cannon HOB	98%	88%	96%	38%	100% of splitters. 96% (84 of 87) of antennas.
Longworth HOB	99%	56%	81%	50%	NAVAIR installed 91% of splitters. 83% (100 of 121) of indoor antennas.
Rayburn HOB	95%	20%	88%	64%	NAVAIR installed 70% of splitters. 58% (108 of 186) of indoor antennas.
Ford HOB	95%		77%	98%	NAVAIR installed 76% of splitters. 95% (73 of 77) of indoor antennas.
Russell SOB	95%	75%	95%	81%	NAVAIR installed 95% of splitters. 81% (63 of 78) of indoor antennas.
Dirksen SOB	95%	90%	100%	75%	NAVAIR installed 94% of splitters. 97% (57 of 59) antennas.
Hart SOB	95%	90%	97%	75%	NAVAIR installed 90% of splitters.

Building	AoC Indoor	AoC	NAVAIR	USCP	Status
	Infrastructure	Power/UPS	Coax Wiring	Indoor Fiber	
					98% (71 of 75) antennas.
Madison LOC	100%		75%	20%	NAVAIR installed 75% of splitters. 85% (129 of 151) of indoor antennas.
Jefferson LOC	9%			20%	
Adams LOC	68%		12%	20%	NAVAIR installed 3% of splitters and 16% (18 of 114) of indoor antennas.
USCP HQ	100%		93%	98%	NAVAIR installed 100% of splitters. 100% (21 of 21) of indoor antennas.
Fairchild	95%		78%	98%	NAVAIR installed 100% of splitters. 93% (26 of 28) of indoor antennas.
Capitol Power Plant	100%		93%	98%	NAVAIR installed 83% of splitters. 77% (23 of 30) of antennas.
Senate Garage	95%			48%	
East Garage				81%	
West Garage					Will not start until renovation complete.
K9 Facility					
Offsite Delivery					
Botanic Gardens	100%			13%	
67 K Street	100%				
Cheltenham Bldg 31	95%				
Cheltenham Bldg 12	95%				

The POP/Equipment Room Infrastructure is for constructing 9 POP (Point-of-Presence) / Remote Head-end equipment rooms and the renovation of the former USCP Headquarters Data Center for use as a Head-end equipment room. Four of the nine POP rooms have been completed by AoC, with another two nearly complete. The below table contains the status of each POP room. Renovation of the former USCP Headquarters Data Center will start in May 2012 after all the data center equipment currently in the space is removed.

POP Room Building	AoC Construction	USCP Indoor Fiber	Status
Hart Garage	100%	100%	
Russell Attic	99%	100%	Steps have been installed.
Capitol Power Plant	100%	100%	
Rayburn G-3	100%	100%	
Capitol ST-88	100%	100%	
Madison	38%	100%	
Adams	65%	100%	
Jefferson	99%	100%	Card reader needs to be installed.
Cannon	98%	25%	

There are three campus outdoor repeater/antennas sites and five off-campus outdoor repeater/antennas sites. The three campus sites are the Verizon Building, Capitol Building, and Thurgood Marshall Building. The funding to support the Verizon Building was approved in OP 9. The Statement of Work is completed and the Memorandum of Understanding with the AoC to allow the transfer of funds has been drafted and under review with AoC. In the Capitol Building, the attic antenna room is 90% complete and the AoC is developing a new cost estimate based on the new Statement of Work. Funding to support the Thurgood Marshall Building was approved in OP 9. Review of the Statement of Work occurred on March 2, 2012, and the AoC is developing a new cost estimate.

There are five off-campus outdoor repeater/antennas sites to support coverage in the 10x10 mile District of Columbia diamond and out to FLETC. The below table contains the status of each site. One site, FLETC, Cheltenham, Maryland will require a Memorandum of Understanding (MOU) between USCP and FLETC, Cheltenham, Maryland. The remaining four sites will require leases negotiated by the AoC. Amendment 3 to the DAS/Repeater Site MOU, covering the leasing cost, has been signed by both AoC and USCP, the funding is being transferred to the AoC. Follow on Amendments are being drafted covering the infrastructure work for the repeater sites.

Location	Status
FLETC, Cheltenham, Maryland	AoC will provide services to complete infrastructure work for this site. MOU with FLETC has been drafted and is currently under review.
East Side: North Barnaby	AOC conducting final lease negotiations with American Towers. Proposed annual rent is \$34,300.
West Side: Site #1 Arlington Garden City	AOC conducting final lease negotiations with American Towers. Proposed annual rent is \$45,780.
South Side: Site #2 Alexandria House Condominiums	AoC is negotiating final lease with Condo Board. After consulting with Condo Board attorney, need to change the lease into an easement documents since the association charter and bylaws do not grant the board the right to enter into leases. The proposed annual rent is \$180,000.
North Side: Hughes Towers (DC Govt.)	All parties have agreed to the Memorandum of Understanding language. The various exhibits (attachments) are being prepared for inclusion so that the document can be formally signed. Proposed annual rent is \$240,000.

The portion of the project dealing with acquisition, installation, testing and optimization of the radio equipment is primarily the responsibility of NAVAIR. The two active sub-projects of this part of the project are the awarding of contracts (RFPs) and the installation of the indoor Distributed Antenna System (DAS) equipment.

Four of five RFPs have been released to date and three of them have been awarded. The Best Value RFP is currently undergoing technical evaluation. The below table contains the status of each RFP:

RFP	RFP Dates	Status
Transmitter Combiners and Receiver Multi-couplers	<u>Estimate RFP Release:</u> April 2012	NAVAIR will be sole sourcing the crystal filters and will then supply the crystal filters as Government Furnished Equipment (GFE) to the vendor who is awarded the transmitters and combiners contract.
Infrastructure Components and Subscriber Units	<u>RFP Released:</u> May 31, 2011 <u>Estimate Award:</u> June 5, 2012	Formal letters were sent to vendors on March 6, 2012 requesting additional technical information. Vendor responses are due March 28, 2012. Technical evaluation should commence April 2, 2012 and be completed by April 20, 2012. This will be a "Best Value" contract.
Distributed Antenna System (DAS)	<u>Awarded:</u> September 14, 2011	The actual cost for the DAS contract is \$4,934,400 and was awarded to FiberSpan.
Interoperability Equipment	<u>Awarded:</u> August 17, 2011	Awarded for \$243,466 to Communications Applied Technology.
System Antennas	<u>Awarded:</u> April 5, 2011	This is for indoor antennas. Award made for \$309,474 to MP Antennas. All 1,400 indoor antennas have been delivered.

In terms of the Indoor DAS approximately 61% of indoor DAS antennas (846 of 1382) and 64% of splitters (272 of 425) have been installed throughout the campus. This sub-project consists of installing Remote Head-end Units (RHU) (one per building); approximately 425 Remote Units (RUs) and splitters; and 1382 indoor DAS antennas. Until the Best Value RFP is awarded this sub-project cannot progress farther than installing indoor antennas and splitters.

Our best estimate is the new radio system will be operational in spring or summer of 2013. However, there are many variables still in play, including when the Best Value contract is awarded and whether or not there is a vendor protest, which precludes us from providing a more specific date. Once the Best Value contract is awarded and the threat of a vendor protest has expired, a much better estimate can be provided to the Committee.

8. What are the annual maintenance costs of the radio system once it is in use?

Until the Best Value contract (Infrastructure, Components, and Subscriber Units) is awarded, and we know which vendor has been selected, identifying the specifics of the selected equipment, we are unable to produce a reliable annual maintenance cost estimate. Below is a list of budget items, which we currently know of, which will need to have their annual cost determined and budgeted:

- *Hardware maintenance for supporting data network equipment, such as switches and routers (annual warranty costs are normally 10% to 15% of equipment value).*
- *Contractor support to maintain radio system data network (estimate is \$350K/year, will be needed if vendor equipment is not Cisco equipment – USCP is a “Cisco shop” with only a Cisco trained staff).*
- *Life-Cycle replacement for supporting data network equipment (1/3 each year, starting at year 2).*
- *Point-to-point data circuits to five off-campus repeater/antenna sites (will not know bandwidth requirement until a vendor is selected, cost could range from \$36K to \$400K per year).*
- *NTIA Frequencies renewal: \$22,200 per year.*
- *Radio equipment hardware maintenance (annual warranty costs).*
- *Radio supplies (historical average cost is about \$100K per year).*
- *Life-Cycle replacement for subscriber units (handhelds, every 3 years)*
- *Tower company contract (our staff is not certified to climb 700 ft. towers to perform maintenance on antenna,, will need a contract in place to provide tower climbing support).*

We expect the O&M cost of the new radio system to be higher than the current system. The new radio system has thousands of additional components (e.g. the indoor DAS) to maintain than the current system. There will be 8 outdoor antenna sites versus the current 3 sites. The new system will have its own supporting data network, with switches and routers that will have to be maintained. The current system does not have a data network. The new subscriber units (handhelds) will cost about 10 times greater than the current subscriber units, significantly increasing the cost of life-cycle replacement.

Pay

9. If Federal employee pay increases are blocked, how much of the budget request is set aside for that purpose that would no longer be needed?

In the Department's FY 2013 budget request, \$3.44 million would no longer be needed if there is no pay increase (COLA) at the beginning of CY 2013.

10. The budget request includes funding for fitness awards?

- Why isn't staying fit a part of the officer's daily duties? Why would an officer get an award for staying fit?

The USCP physical fitness program provides employees with incentives for meeting certain physical standards. While funding for the program has been cut in recent years, the program encourages employees to participate in extra training and staying in physical shape above that required to perform the essential functions of the job. While staying fit and capable of performing core job functions is essential to the job of our officers, the incentive program encouraged even higher fitness levels for those interested in attaining the incentive.

11. What are the physical requirements for Capitol Police once they are on the force?

While the Department does not have a formal physical fitness requirement, an Officer/Official must maintain a level of fitness in order to perform the physical requirements as outlined in the respective position descriptions and to perform the essential functions of the job. If an employee exhibits an inability to perform job requirements and/or the essential functions of the job, a Fitness For Duty Evaluation may be initiated by the Department and performed by the Department medical professional to determine the level of fitness of the employee.

Evacuation

12. Can you please describe the three methods of dealing with an emergency situation in or around the Capitol Complex. Please include the types of emergency, such as fire, that would dictate the use of a method.

The three main methods of dealing with emergency situations within the Capitol Complex are evacuation, lock-down, and shelter in place. The USCP trains and exercises these methods on a routine basis. Evacuation would be used for cases involving fire and other emergencies created or concentrated inside the buildings within the Complex. Evacuation could also be the result of an air threat to the Capitol Complex. Our evacuations are to be conducted in a calm and systematic fashion as to not create panic. During an evacuation, the USCP sends blackberry messages to stakeholders, notifies staff and Members in offices by annunciators, and if necessary, uses public address systems. Once an evacuation is started and if it is safe to do so, USCP travels from floor to floor to ensure that all personnel are notified to evacuate the building. Once personnel leave the buildings, they respond and are assisted to their designated assembly areas where they are met by the USCP who receive information from each office's emergency coordinator to determine if any personnel are missing so that they can be located. After evacuations are completed, the USCP meets with all involved entities to ensure that any situations encountered during the evacuation that were a problem are addressed and corrected for the future.

Lock-down could involve one or more buildings, including the locking-down of the entire Capitol Complex. An example of using this emergency response could involve an armed gunman outside one of the office buildings. The building would be placed in lock-down to ensure that the no incursion into the office environment took place. The USCP has the ability to immediately close and lock all doors and entrances into the office buildings. Additionally, the USCP also has the

ability to have its officers raise barriers and post traffic instructions to stop and divert traffic away from the Complex during a lockdown. This can be accomplished in a matter of minutes and can provide a safe environment for the entire Complex. Officers routinely exercise and train to lockdown both the buildings and the entire Complex. If a lock-down is conducted, the USCP again sends the appropriate messaging to offices to inform personnel of the status of the building(s) and/or Capitol Complex.

Finally, shelter in place is an emergency method of having Members, staff, and visitors staying within their offices or moving to other safe areas within the buildings to ensure their safety. This method would be used when a threat has possibly breached the building. This response is dependent upon the situation but Members, staff, and visitors can either stay in the office or move to another safe location. Other safe rooms are rooms and stairwells that have been deemed safe for this purpose and USCP officers and staff have been made aware of these locations and are able to respond to them if necessary. Again, USCP would be able to communicate to stakeholders by annunciators, blackberry systems, public address systems, and with officers responding from floor to floor to assist.

13. During the earthquake in 2011 staff evacuated prior to receiving instructions from USCP. How does the Department deal with a probable emergency situation before details are fully known?

During the 2011 Earthquake, some staff self-evacuated; however, once it could be determined that this was an event that affected the entire Complex; the USCP pulled the fire alarms for the buildings. While self-evacuation can pose some problems, the USCP and Capitol Complex Emergency Management network are well trained to deal with emergency situations on Capitol Grounds. Additionally, emergency coordinators and staff in each office have exercised evacuations on many occasions. While staff might have self-evacuated during the 2011 Earthquake, they were trained to respond to assembly areas and were also directed away from those areas by USCP if they could not be inhabited due to their close proximity to the buildings. The USCP makes the best use of the information it has during any emergency and uses that information to best control the incident and protect Members, staff, and visitors. All commanders are highly trained in the National Incident Management System (NIMS) and use this Incident Command System (ICS) to respond and control all incidents on Capitol Grounds. This methodology aides commanders in managing any incident from periods at the beginning of the incident where very little information is known to after the event has concluded and demobilization is occurring.

14. During a fire emergency please describe the role of USCP in the evacuation. How does USCP gain situational awareness during the incident to ensure all persons have been evacuated?

The United States Capitol Police's responsibilities in fire evacuation are to notify the community of the alarm by various technological means, to ensure that all persons have been evacuated in an orderly and safe manner, and to notify other emergency response capabilities outside the scope of the USCP responsibilities such as D.C Fire Department. The USCP determines if all persons have been evacuated through its officers assigned at building assembly areas and coordinating with Congressional office emergency coordinators who report any missing staff to the officers. If it is safe to do so, USCP will check each floor of the building to ensure that all persons have been evacuated.

15. How does USCP direct people to avoid an emergency situation that is localized?

The USCP has many methods that they use to ensure that people are redirected away from emergencies. The most simple and basic method is to create perimeters to prevent access by unauthorized personnel. During emergencies, the USCP sets perimeters with uniformed officers to direct personnel away from potentially dangerous locations. In addition to the officers on the scene and controlling perimeters, the USCP notifies the community by the use of blackberry messaging and annunciator notifications within each office. The USCP also has the capability to make public address announcements both within and outside the Congressional office buildings. The USCP uses the radio communications system and Blackberry notifications to make notifications to its officers and first responders.

16. How does USCP redirect people if an emergency exit is blocked or overcrowded during an evacuation?

Evacuations are meant to be conducted in an orderly and safe manner; therefore, evacuating personnel and visitors should be leaving in an expedient fashion but not running to create panic or overcrowding at doorways and other exits. Exercises are routinely conducted Complex-wide to ensure that Congressional employees know how to react and how to leave by the most direct route from their offices. If for some reason, routes and exits should become blocked during an emergency, officers are able to redirect personnel to less crowded exits. The public address system and blackberry messaging system are also utilized.

THURSDAY, FEBRUARY 9, 2012.

ARCHITECT OF THE CAPITOL

WITNESS

HON. STEPHEN T. AYERS, FAIA, LEED AP, ARCHITECT OF THE CAPITOL

CHAIRMAN REMARKS

Mr. CRENSHAW. Let me call this meeting to order, and I am going to right now ask for the testimony from the Architect of the Capitol. Stephen Ayers is here, we will submit your formal statement for the record.

SUMMARY STATEMENT OF STEPHEN T. AYERS

Mr. AYERS. Wonderful. Thank you, Mr. Chairman, Mr. Honda, and Mr. Bishop, for the opportunity to testify today regarding the fiscal year 2013 budget. Our mission is to serve Congress and the American people as well as to maintain the historic buildings entrusted to our care. We know firsthand the challenges associated with preserving our historic buildings, and we have a great deal of experience in planning for our future requirements. However, despite our best efforts to anticipate and to make needed repairs along the way, our buildings continue to age, and they become more difficult and costly to maintain.

Making necessary improvements requires significant investment, and today our backlog of deferred maintenance is more than \$1.6 billion. As we developed this budget, we worked to prioritize our efforts to ensure that every resource goes towards the most-needed work, realizing that we must balance our stewardship responsibilities with fiscal responsibilities.

REALIZING EFFICIENCIES

I also realize that it is my responsibility, Mr. Chairman, to find ways to work faster, smarter, and cheaper in our efforts in reducing the costs of carrying out our daily operations and projects. I thought I would give you just a few examples. This year we reduced our overtime expenditures by 22 percent. We have done that by adjusting work schedules, by supervisors being real supervisors and carefully scrutinizing every bit of overtime we work. That has saved millions of dollars.

We have implemented temporary, targeted hiring freezes last year, and are delaying filling vacant positions. We have eliminated 15 positions. In addition, we have let go six part-time and rehired annuitants, allowing us to reinvest those dollars in deferred maintenance projects.

In the Rayburn Building, instead of replacing some worn-out escalator stairs, we bought refurbished ones and saved a half a million dollars.

We have even looked at all of our publications throughout our agency and our subscription services and there we cut out \$50,000. Our new Director of IT Services has consolidated our computer servers from 200 to 10, saving over \$200,000.

And we worked to reduce energy and water consumption across the campus, and, in doing so, saving energy and saving water saves money. We reduced energy consumption considerably campuswide last year, resulting in \$2.5 million in cost avoidances this year. We have implemented free cooling at the Capitol Power Plant, saving half a million dollars a year. And in the House offices alone, we have saved 75 million gallons of water last year as compared to the previous year.

As a result of these and other savings, we were able to reduce our budget request for capital projects to \$161 million, a 10 percent decrease from our 2012 request. Nearly \$50 million of this will go towards projects that specifically address life-safety, infrastructure, and security projects.

For fiscal year 2013, we are recommending deferral of nearly \$203 million of work that is ready to go due to fiscal constraints. This is obviously a calculated risk, because these projects will only grow more costly over time.

So as stewards of the Capitol campus, we are obviously committed to working with the Congress to ensure that proper investments are made at the right time, and, in doing so, this will ensure that our national treasures are preserved for generations to come.

Mr. Chairman, thanks to a great AOC team, we have made really good progress in implementing projects on time and on budget this last year, and we are working really hard to be world-class leaders in what we do. And in order to do so, we have got to invest in new strategies for facilities maintenance, energy conservation, security, and historic preservation, and we will do so by effectively managing our resources, reinvesting money where we can, and requesting dollars when we need to.

This concludes my statement, and I would be happy to answer any questions you may have.

Mr. CRENSHAW. Thank you very much.

[The prepared statement of Mr. Ayers follows:]

**STATEMENT OF
THE HONORABLE STEPHEN T. AYERS, FAIA, LEED AP
ARCHITECT OF THE CAPITOL**

**Regarding Fiscal Year 2013 Appropriations
For the Architect of the Capitol**

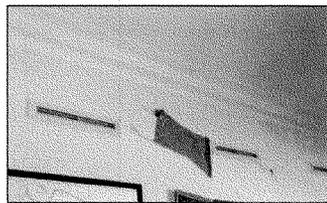
**Subcommittee on Legislative Branch, Committee on Appropriations
U.S. House of Representatives**

February 9, 2012

Mr. Chairman, Representative Honda, and members of the Subcommittee, thank you for the opportunity to testify today regarding the Architect of the Capitol's (AOC's) Fiscal Year 2013 budget request.

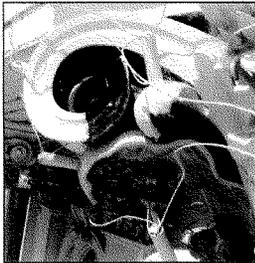
The Architect of the Capitol's core mission is to serve Congress and the American people as well as preserve and maintain the historic facilities entrusted to our care. We know first-hand the challenges associated with preserving these historic buildings, and we have much experience in anticipating and planning for future requirements to ensure that future generations will continue to be inspired by their United States Capitol and all of the history that it holds.

In the past year, we also experienced unexpected events, such as the 5.8 magnitude earthquake that shook the area. Our dedicated, professional staff was among the first on the scene to assess the situation and assure that the facilities were safe and operational so Congress can continue to conduct the people's business. In the House Office Buildings alone, in the days following the earthquake, our House Superintendent's staff completed over 400 work orders that included making repairs to plaster ceilings and walls that suffered cosmetic damage as shown in the adjacent photos.



However, despite our best efforts to anticipate and make needed repairs, as these facilities continue to age, they become more difficult to maintain, building systems such as the plumbing and heating are beginning to fail in the oldest office buildings, and installing the most up-to-date technology has proven challenging. Making the necessary improvements and upgrades to Congressional facilities will require significant investment. We appreciate the Congress's support of our efforts over the past several years to improve the buildings and infrastructure on Capitol Hill, however, the number of pressing needs continues to grow as the availability of Federal dollars becomes more constrained.

Therefore, in developing our Fiscal Year 2013 budget request, we worked to prioritize our efforts to ensure that every resource goes toward the most needed and most important work, realizing that we must balance our stewardship responsibilities with fiscal responsibility. For Fiscal Year 2013, our responsibilities will also include two very staff- and resource-intensive activities – preparing for the Presidential Inaugural ceremony, and orchestrating the post-election office moves in the House and Senate.



As stewards of our national treasures, it is my duty to put forth a reasonable budget that I believe will best meet the need of our aging infrastructure. This awesome responsibility has led me to request an increase in my budget during fiscally challenging times; and not doing so, I believe, would be irresponsible.

However, I found that the key to balancing all of these responsibilities is to put forth our request in a prioritized way that provides Congress with the information they need to make sound and knowledgeable decisions to align our budget with available fiscal resources. We believe we have done that with this budget request.

Realizing Significant Efficiencies and Savings

It is my additional responsibility to find ways of working faster, smarter, and cheaper. We believe we are leading by example by becoming more efficient in an effort to save taxpayer money. These efforts are both large and small and most of these efforts resulted in significant cost avoidances, that is, by doing things more efficiently, we were able to reduce the costs of carrying out daily operations, programs, or projects.

We are using the innovative ideas, such as engaging cross-functional teams, to implement best practices to help us become more efficient in our operations, drive quality improvements, and further enhance efficiencies and reduce costs. The following are examples of the efficiencies the AOC realized during Fiscal Years 2011 and 2012.

- We implemented an agency-wide effort to reduce overtime while maintaining service levels and response times. We were able to accomplish this by adjusting existing employee work schedules and hiring new employees to work alternate schedules (vs. the traditional Monday-Friday work week). We were therefore able to provide suitable weekend coverage; reducing our overtime costs in Fiscal Year 2011 by 22 percent. This was especially noteworthy given the extraordinary manpower requirements of the post-election Congressional office moves.
- We implemented targeted hiring freezes, delayed filling vacant positions, eliminated positions, and reduced the number of temporary employees and annuitants among our ranks, thereby allowing us to reinvest our resources in Deferred Maintenance and Capital Renewal projects.
- We reviewed all of our subscriptions to print and online publications and cut those that were unneeded or underutilized. This effort yielded nearly \$50,000 in annual cost savings.
- In the Rayburn House Office Building, several escalators needed new steps in order for them to continue to operate safely and effectively. However, replacing the existing steps, which were installed during the construction of the building, was cost prohibitive. Instead, AOC staff did extensive research into acquiring refurbished escalator steps. This option not only saved more than \$500,000, it was a more sustainable option by reducing the amount of materials introduced into the waste stream.
- In some of our jurisdictions, we evaluated several leases and either relocated leased operations to more cost effective/smaller locations, or re-competed the lease to reduce costs. This resulted in immediate and long-term cost avoidances totaling more than \$1 million.
- In July and August 2011, on excessively hot days when there was a high demand on the power grid, the AOC implemented its load curtailment procedures. These days are called “Gold Days.” Observing them helps reduce demand on the electric grid during high demand periods and helps reduce utility costs to the AOC. Members’ offices played a role in observing Gold Days by turning off non-essential lighting and office equipment. In addition, the AOC dimmed hallway lights and shut down decorative water fountains.
- We have found significant savings by taking a critical look at our information technology services. By using virtual server technology, we reduced the number of physical servers from 200 to 10. This reduced energy consumption, space requirements, and maintenance costs. We also standardized and consolidated our platform software, which reduced maintenance and support costs. In all, we saw more than \$220,000 in annual savings and improved our IT equipment reliability.

Accomplishing these efforts through more effective means also provided an extra benefit to Congress and to the American people; the AOC was able to reinvest resources in important Deferred Maintenance and Capital Renewal projects. To give one example, we reinvested funds saved through our energy reduction efforts into the initial planning and design for the Cogeneration and West Refrigeration Plant projects in Fiscal Year 2011. Therefore, the AOC was able to reduce its budget request for capital projects in Fiscal Year 2013 to \$161 million, a 10 percent decrease from its Fiscal Year 2012 capital projects request. Nearly \$50 million of this funding will go toward addressing Deferred Maintenance projects. And, the 16 capital projects on our Fiscal Year 2013 Recommended Line Item Construction list specifically will address the most critical life-safety, infrastructure preservation, and security needs. In the most difficult of economic times, we must continue to correct deficiencies and prevent facility or system failures. The key is to prioritize these projects to ensure every taxpayer dollar goes toward the most important work.

Project Planning and Prioritization

Over the past several years, we have refined our dynamic project prioritization process, which has contributed to our ability to identify and communicate to Congress the urgent need to invest in the historic and iconic buildings and infrastructure, and the resulting risks if these needs are not addressed.

The AOC's Project Planning and Prioritization Process ranks every necessary project using the conditions of the facilities and the anticipated urgency with which we need to provide the levels of investment and maintenance required to ensure they remain safe, functional, and secure. The first priority, of course, is to ensure the health and safety of all those who work in and visit the Capitol campus. This "triage" process for facilities identifies the most serious issues first, which we assess carefully to develop solutions to fix the problems while also addressing necessary life-safety issues, security requirements, energy-savings opportunities, and historic preservation measures. We take the same approach in meeting our clients' needs, however by placing a priority on fixing existing deficiencies and deferred maintenance; new construction projects are often postponed.

We have several tools that we use to assess which facilities need emergency care versus those that can be nursed along until funding becomes available to address specific Deferred Maintenance or Capital Renewal projects in those particular buildings. These tools include Facility Condition Assessments, the Capitol Complex Master Plan, Jurisdiction Plans, and the Five-Year Capital Improvements Plan,

which examines phasing opportunities, project sequencing, and other factors to better facilitate the timing of the execution of major Deferred Maintenance and Capital Renewal projects.

Our comprehensive prioritization process rates projects on a number of objective factors to produce an overall hierarchy of importance. During this process, projects are classified by type and urgency. The projects are then scored against six criteria: safety and regulatory compliance; security; historic preservation; mission; economics, and energy efficiency and environmental quality. We then compile these scores to produce a composite rating consisting of classification, urgency, and project importance and we also apply a criticality and risk decision model to the overall prioritization list to filter which ones are included in our annual budget request.

To provide us with a long-term, strategic look ahead to queue up priorities, investments, and projects, we use the Capitol Complex Master Plan. This past year we have worked to finalize an updated Master Plan that looks ahead 20 years and assesses the present physical condition and capacities of the buildings within the Capitol campus within the nine associated Jurisdiction Plans. These plans help us make future decisions about facility renewal requirements and new projects. For example, there may be instances where major, whole building renovations should be undertaken rather than a myriad of smaller projects, such as the planned Cannon House Office Building Renewal project. Renewals are more cost effective for implementing a variety of necessary improvements as they avoid having to re-enter a space several times to perform different types of work.

Finally, our Five-Year Capital Improvements Plan helps us meet several goals by analyzing all of the facility requirements, grouping them into logical and economical sequencing and phasing, prioritizing the resulting requirements using a set of objective criteria, and establishing measureable outcomes. Through this prioritization process, we work to document current and future needs and identify ways to seamlessly integrate those needs with modern-day code, security, technology, and sustainability opportunities. The Five-Year Capital Improvements Plan also provides outcomes showing the results if work is performed as planned and the resulting outcomes and risks if work is not performed.

Over the past several years, Congress has been very supportive of the AOC's efforts to address critical Deferred Maintenance projects. However, it is important to acknowledge that there is a growing threat that must be faced – a very large number of Deferred Maintenance and Capital Renewal projects that

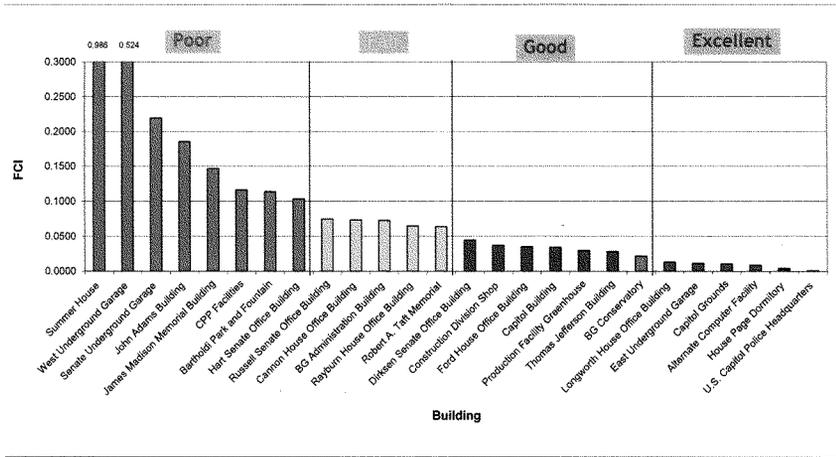
remain to be addressed. For Fiscal Year 2013, we are recommending that an additional \$202.6 million in necessary work be further deferred to a later fiscal year due to the austere budget environment. This is a calculated risk. The AOC continues to carefully monitor and maintain the facilities and systems to minimize the risk of catastrophic failure. We also continue to monitor the large number of Capital Renewal projects that remain unaddressed.

As demonstrated in the accompanying Facility Condition Index (FCI) charts (*page 7*) comparing Fiscal Year 2010 and Fiscal Year 2011, Congress has provided significant funding over the past several fiscal years, which has been directed to help repair the infrastructure of several facilities, which in turn has improved their overall conditions.

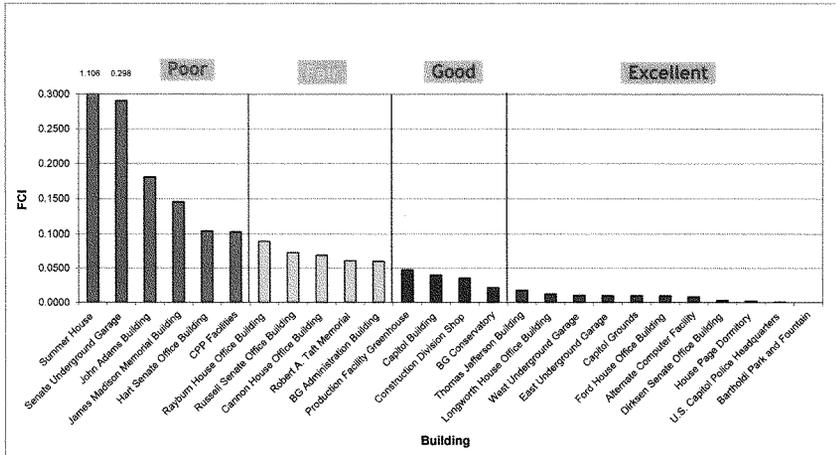
However, while several facilities have trended beyond a “good” condition, we have found over the past year that several of the facilities that are now rated as “fair” or “poor” are getting far worse due to continued deterioration. This trend is more evident in the projected FCI information provided in the accompanying Capitol campus illustrations (*page 8*), which demonstrate how the conditions of each of the Congressional facilities will continue to worsen over the next five years as compared to today. (The Fiscal Year 2016 illustration shows the facility condition changes with no additional investments made after Fiscal Year 2012.)

The longer Capital Renewal projects are delayed, the conditions in these facilities will continue to deteriorate; deficiencies will grow more and more serious, and ultimately more costly to repair. Additional consequences of not addressing looming Capital Renewal projects are the continued crumbling of facilities’ infrastructure; a loss of historic artwork and architectural features; continued system and building failures, and security threats.

Fiscal Year 2010 Facility Condition Index



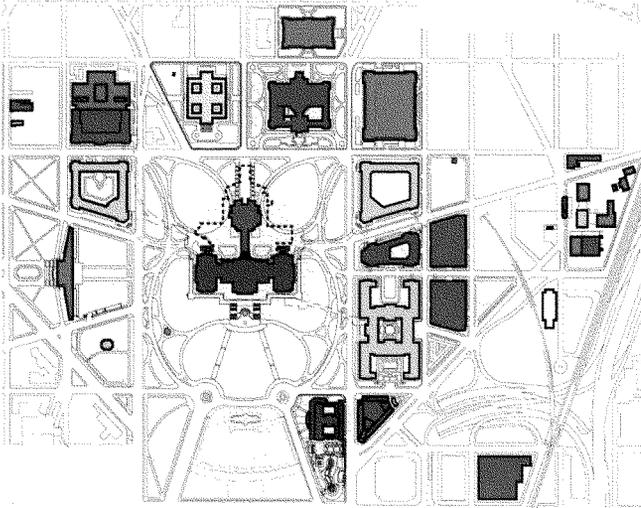
Fiscal Year 2011 Facility Condition Index



Note: Incorporates projects funded in Fiscal Year 2012

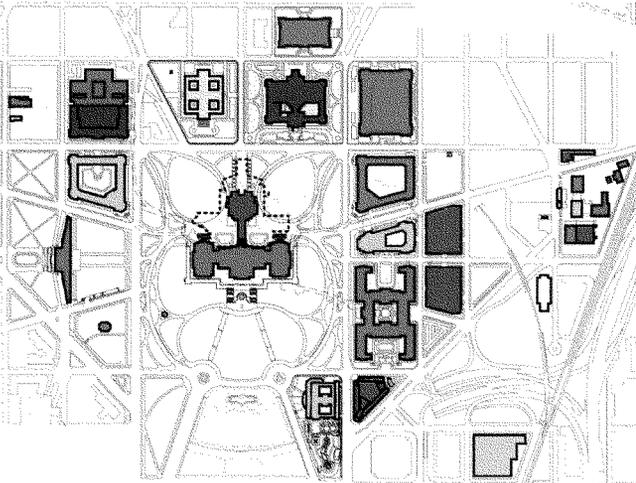
FCI Legend	
Over 0.10	= Poor
0.05 - 0.10	= Fair
0.02 - 0.05	= Good
Less than 0.02	= Excellent

Fiscal Year 2011 Facility Condition Index (FCI) by Facility
(Incorporates projects funded in Fiscal Year 2012)



Projected

Fiscal Year 2016 Facility Condition Index (FCI) by Facility



Roll Call

Leak Damages Member Offices in Cannon Building

Jan 9, 2012, 5:56 p.m.

In another sign that the Cannon House Office Building needs a major renovation, a leak has caused damage in six Members' offices.

According to Architect of the Capitol spokeswoman, the leak began late Saturday night in a Member's fourth-floor office suite, "caused by a failed pipe plug in a water line due to age."

The leak came two months after a 64-square-foot section of plaster, which also deteriorated from age, fell from Cannon's fourth-floor ceiling.

THE HILL

Cannon ceiling tiles fall, strike police officer

By Jandy Vager
Posted: 08/26/09 11:58 AM EDT

A U.S. Capitol Police officer was taken to the hospital on Thursday after ceiling tiles fell in the Cannon House Office Building and struck his arm, highlighting the building's need for renovations.

"He was transported to George Washington Hospital with [a] minor injury to [his] arm ... for further evaluation," said Capitol Police spokeswoman Sgt. Kim Schneider, in an e-mail.

A "few" ceiling tiles came down in Room 345.

At more than 100 years old, the Cannon building has fallen into a state of disrepair.

Roll Call

Large Chunk of Plaster Falls From Cannon Ceiling

Nov. 21, 2011, 1:19 p.m.

The Architect of the Capitol is already laying out plans for major renovations to the Cannon House Office Building scheduled to begin in 2017. And if an incident this morning is any indication, the need is pressing for such restorations to the oldest office building on the Capitol campus.

An approximately 64-square-foot section of plaster fell from the fourth floor ceiling in Cannon, an AOC spokeswoman said, adding that no injuries or further damage occurred.

"Following an inspection by the AOC's House Superintendent's office, it appears the plaster deteriorated due to age," she explained.

The AOC has known for some time that major work is needed to keep the 100-year-old building in working order.



Cannon House Office Building Renewal Project
The most recent and poignant example of the consequences of allowing Capital Renewal projects to worsen into Deferred Maintenance is the Cannon House Office Building. The Cannon Building was completed in 1908, making it the oldest Congressional office building, and it is definitely showing its age.

Essential systems housed behind the walls and in mechanical rooms are continuing to crumble and fail. As members of the Subcommittee have read in the various Capitol Hill newspapers, water pipes are cracking and serious water leaks are causing significant damages to office suites. Plaster is weakening and falling from the ceilings.

Based on the facility condition assessments we have conducted in recent years, we have found major deficiencies in the heating, ventilation, and air-conditioning (HVAC) systems, plumbing, mechanical equipment, life-safety and fire protection systems, electrical equipment, and exterior stone.

Several building components such as windows, doors, lighting, and insulation need to be upgraded to comply with Federal energy standards. Also, various aspects of the building need to be upgraded to comply with current accessibility requirements. Lastly, there are several historic preservation requirements throughout the interior and exterior of the building.

THE HILL

The Cannon Building is Crumbling

By Jordy Yager

Posted: 05/05/09 07:51 PM (ET)

At over 100 years old, the Cannon House Office Building has fallen into a state of disrepair, with crumbling limestone falling from the roof, an energy-inefficient air conditioning system that is more than 70 years old and water pipes that leak into member offices.

And those are just some of the woes that have long plagued the oldest House office building, which is home to more than 400 lawmakers.

Capitol administrators will make a strong push Wednesday to launch a series of overdue renovations as safety and environmental concerns mount.

One of Cannon's most dangerous needs hovers above the heads of hundreds of tourists, staffers and members as they negotiate the sidewalks below. Four-foot slabs of limestone jut out of the roof's molding as seismic additions to set off the lip of the roof.

To address these urgent problems and to ensure the Cannon Building provides an effective workplace into the next century, with Congress's support, we have begun planning for the complete renewal of the building. Our Cannon Project Team has been identifying the program of requirements, that is, identifying all of the areas requiring improvement and

upgrading. They also are developing integrated project construction and funding schedules to ensure the proper sequencing of work is aligned with the necessary resources.

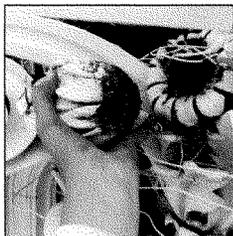
I also have personally reached out to Members of Congress to share information about how important the Cannon Renewal Project is. I have testified before the Committee on House Administration and this Subcommittee on the dire need to address the Cannon Building's crumbling infrastructure over the past three years. This past fall, I attended a Member briefing to discuss the project and answer Members' questions, as well as sent out a letter to all House Member offices explaining the need for this project. In addition, in December 2011, we hosted an "Industry Day" to reach out to the construction industry to inform them about the project requirements. Providing project information in advance of the procurement process will help ensure that we receive the best value for the Congress as this major building renovation moves forward.

When the project is complete, the quality and reliability of key building systems such as heating, cooling, lighting, plumbing, fire and life-safety, and accessibility will be greatly improved and will be much more efficient. Equally important, the functionality of the building for both Members and staff will be greatly enhanced.

Other buildings on the Capitol campus are as old – or in the case of the U.S. Capitol Building – older than the Cannon Building. As stewards of the Capitol campus, the AOC is committed to continuing to work with Congress to ensure that the proper investments are made in the facilities at the appropriate times.

Funding the following capital projects in Fiscal Year 2013 ensures that necessary investments are made in our historic infrastructure, and increases the safety and security of those who work in or visit

the facilities on the Capitol campus. In addition, investing in the projects will continue to preserve national treasures for future generations, and many are designed to allow the Congress to realize greater energy efficiencies and savings.



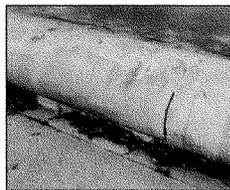
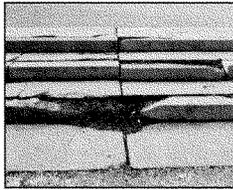
- **Dome Restoration, Phase IIA** – In Fiscal Year 2011, we began Phase I of this project with the restoration of the Dome skirt. The ongoing work includes repairing and restoring historic ironwork, sandstone, and brick masonry. In addition, old paint is being removed from the interior and exterior of the Dome skirt and it will be repainted. This phase of the project is on budget and on schedule for completion in fall 2012.

Phase IIA is the second of four phases and will involve making needed repairs to the Dome's exterior. This also will include exterior ironwork repairs, restoration of columns, finials and decorative ornaments, repair of the gutter system and repair/replacement of windows, installation of a new fall protection system, repair/replacement of roof electrical systems, installation of a bird deterrent system, and priming, resurfacing, and repainting of the Dome's exterior.

Our Dome project is one of many that are transpiring across the country. Many state capitols are experiencing many of the same issues and are undergoing costly repairs as well. For example, Oklahoma's 94-year-old dome is undergoing a \$130 million renovation. In Minnesota, they are looking at a \$241 million restoration of its 106-year-old capitol, \$4 million of which is just to repair leaks in the dome.

The planned Phase IIA repairs will ensure that the elements that make the Capitol Dome unique and iconic will not be lost to time and elements. It also will provide the appropriate life-safety systems are in place for the protection of AOC employees charged with the continuous care and maintenance of the Dome.

- **Union Square Stabilization** - In December 2011, the Architect of the Capitol's jurisdiction was expanded to include Union Square – an 11-acre parcel including the Capitol reflecting pool and the Grant Memorial. Our Fiscal Year 2013 budget request reflects this added responsibility and includes \$7.3 million for its required care and maintenance, including reflecting pool cleaning and repairs, stabilization of the steps, immediate sidewalk repairs, lamp post replacement, and cleaning and restoration of the statuary. As this is a new requirement for Fiscal Year 2013, estimates may be revised and updated as additional condition assessment information becomes available.



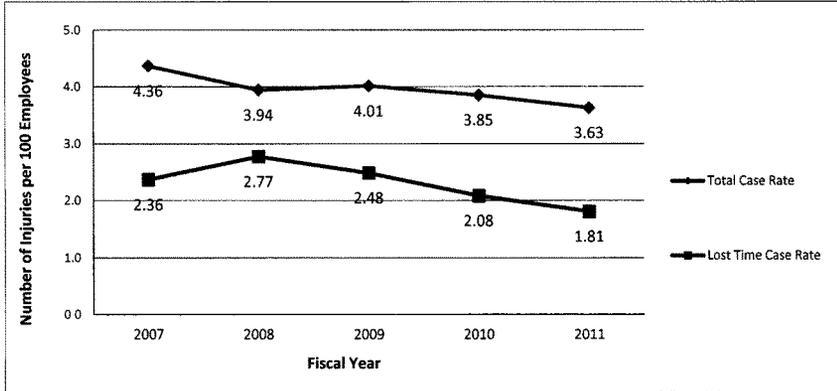
- **West Refrigeration Plant, Chiller Addition** – The hot and humid Washington summers have increased the cooling demands across the Capitol campus and the four existing chillers in the Capitol Power Plant’s West Refrigeration Plant are more than 30 years old and well beyond their useful lives and are no longer reliable to meet current demand. This project would fund the installation of two variable speed, high-efficiency centrifugal chillers and ancillary equipment in the West Refrigeration Plant Expansion. This would ensure that a steady supply of chilled water would be maintained to ensure that Congressional facilities would be cooled during the hottest months of the year. In addition, installing new, energy efficient equipment will reduce campus-wide energy consumption, which will aid in meeting Energy Independence and Security Act of 2007 requirements.
- **Electrical Distribution Upgrade, Alternative Computer Facility** – Security experts are warning against a new type of terrorist attack – the “blended attack.” Blended attacks are defined as coordinated attacks combining a physical attack against a target along with a cyber-attack against the same or different targets. Natural disasters, such as last August’s earthquake, also can wreak havoc with computer systems and equipment. Therefore, providing for the appropriate redundancies for computer systems that support Congressional functions is essential. This project would ensure that aging electrical system at the Alternative Computer Facility is upgraded to provide added reliability and redundancy, reducing the possibility of catastrophic failure of critical systems.

Ensuring a Safe Workplace

Safety is a top priority at the AOC. Since Fiscal Year 2007, Congress has invested over \$210 million in more than 55 safety-related projects executed by the AOC. This includes a number of facility-related projects, including enclosing exit stairways in the Longworth House Office Building; installing ventilation systems and upgrading electrical and lighting in Congressional facilities; and extending sprinkler and smoke detector coverage in major office buildings.

The level of safety throughout the Capitol campus has never been higher and continues to improve. This is best demonstrated by the continued reduction in the agency's Injury and Illness (I&I) rate.

AOC Injury and Illness and Lost Time Rates



In Fiscal Year 2011, the AOC's total I&I rate fell to 3.6 percent, and its lost time rate was reduced to 1.81 percent. This is compared to Fiscal Year 2010's rates of 3.8 percent and 2.1 percent. Much of this success can be attributed to the AOC's long-established safety education and training programs that place a strong emphasis on employee safety. By way of example, I am very pleased to report that as of February 1, 2012, our Library Buildings and Grounds jurisdiction employees have worked 718 consecutive, injury-free days.

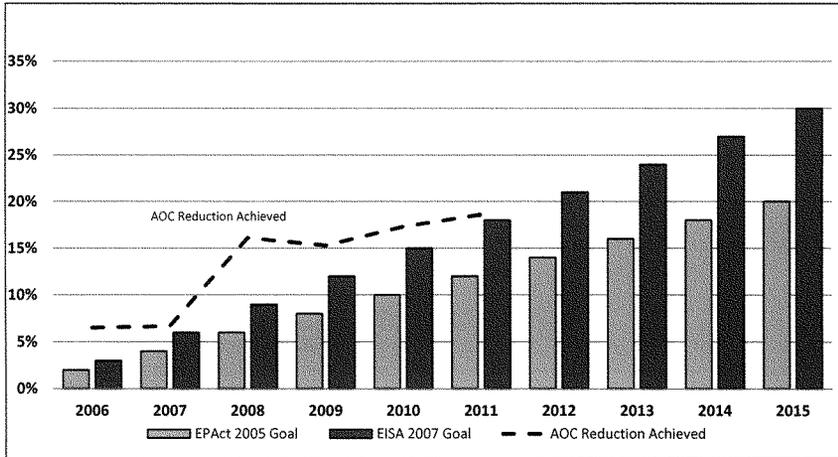
Saving Energy and Taxpayer Money through Sustainable Practices

The Architect of the Capitol's legacy of sustainability began with the setting of the Capitol's cornerstone in 1793, and is continuing today. The AOC is working to reduce energy and water consumption across the Capitol campus in order to help save taxpayer money.

In Fiscal Year 2011, the AOC exceeded the Energy Independence and Security Act of 2007 (EISA 2007) energy reduction goal of 18 percent by achieving a 19 percent reduction. Looking forward, the energy reduction goal for Fiscal Year 2012 is 21 percent, and meeting this and future reduction goals will become more challenging because the projects that yielded quick results have been completed.

Implementing the next series of projects will take more time and more resources to realize savings in taxpayer money, and further reductions in energy usage.

AOC Meeting Energy Reduction Goals



The AOC’s Sustainability, Energy and Water Conservation Division has been leading the Agency’s efforts to further reduce energy consumption on Capitol Hill. In Fiscal Year 2011, the AOC reduced energy consumption by 109,000 MMBtus, which resulted in \$2.5 million in cost avoidances over Fiscal Year 2010.

The projects and programs that contributed to these savings include the Energy Savings Performance Contracts (ESPCs) for the House and Senate Office Buildings and the Capitol Building as well as retro-commissioning of equipment to optimize building systems’ performance. The AOC also is utilizing energy audits, building energy modeling, and utility meters to assess energy consumption and identify additional opportunities for energy reductions.

In November, the AOC began using “waste-to-energy” as an alternative method to dispose of solid waste from Capitol Hill. Waste-to-energy refers to the burning of solid wastes to generate heat and, in turn, produce steam and electricity. This process creates usable energy employing waste that would

otherwise be placed in landfills – diverting up to 90 percent of the Capitol campus’s non-recyclable solid waste. The heat generated from this combustion process produces enough steam and electricity to power an office building the size of the Dirksen or Longworth Building for several months. In Fiscal Year 2011, more than 5,600 tons of non-recyclable waste was collected from Congressional facilities. Using waste-to-energy methods on Capitol Hill complements the AOC’s ongoing robust recycling programs. In fact, the AOC recycles approximately 4,000 tons of materials each year, including construction waste and e-waste such as computers and other electronic equipment.

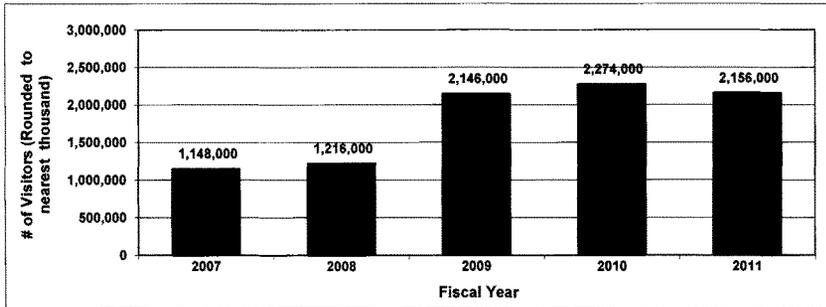
Looking ahead, the implementation of cogeneration at the Capitol Power Plant in the near future will play an essential role in the AOC’s long-term energy conservation strategy. Cogeneration uses combustion turbines to generate both steam and electricity. The electricity produced would help to offset the electricity used by the Capitol Power Plant. In addition, the use of the heat generated from this operation would produce enough steam to reduce reliance on existing, aging boilers. Utilizing cogeneration will help Congress meet the Energy Independence and Security Act of 2007 requirement of a 30 percent energy reduction by 2015, and will increase the Capitol Power Plant’s overall efficiency.

The AOC is proposing the use of a Utility Energy Services Contract (UESC) to help finance construction of the cogeneration plant. This public-private partnership leverages private funding allowing the AOC to execute construction in a timelier manner, and allows the use of limited appropriated funds for other priorities, such as deferred maintenance or life-safety and security projects.

Providing Extraordinary Services and Inspiring Experiences

Another large component of the AOC’s mission is visitor services. Since the Capitol Visitor Center opened in December 2008, nearly 7 million visitors have come through its doors. The visitor experience at the U.S. Capitol is comprised of highly personal moments that can inform, involve, and inspire those who come here, and this is largely provided by the expert Visitor Center staff who provide memorable and engaging tours. The Visitor Center also provides visitors with convenient amenities including information desks, restrooms, gift shops, and a restaurant. In fact, in Fiscal Year 2011, the Restaurant and Special Events Division, supported more than 850 Congressional events and served nearly 243,000 meals.

Visitors to the U.S. Capitol



** Capitol Visitor Center opened in Fiscal Year 2009*

With the Capitol Visitor Center situated on the East Front of the Capitol, visitors approaching from the West can stop and smell the roses in the National Garden. And, each year nearly one million people visit the U.S. Botanic Garden. The U.S. Botanic Garden staff provides enriching educational programs for guests of any age, and they are the recognized leaders in the development and promotion of sustainable landscapes.

In fall 2011, the White House Council on Environmental Quality released guidance for Federal agencies on Sustainable Practices for Built Landscapes, indicating that the built landscape is critical to the overall success of sustainability programs within the Federal government. A working group led by the U.S. Botanic Garden produced the 32-page guidance. This was the first time the Legislative Branch has been invited to participate in such an effort. The guidance provides information to assist agencies in meeting their targets under Executive Order 13514, and covers facilities with or without buildings in addition to historic or existing structures.

The new guidance is based on the Sustainable Sites Initiative (SITES), an interdisciplinary effort by the American Society of Landscape Architects, the Lady Bird Johnson Wildflower Center at The University of Texas at Austin, and the United States Botanic Garden to create the nation's first voluntary guidelines and performance benchmarks for sustainable land design, construction, and maintenance practices.

The guidelines will be used by Federal agencies when constructing new facilities, rehabilitating existing owned or leased facilities, or when landscaping improvements are otherwise planned. Federal landscaped property provides opportunities to promote the sustainable use of water and land, conserve soils and vegetation, support natural ecosystem functions, conserve materials, promote human health and well-being, and ensure accessibility for all users, including those with disabilities.



AOC Accomplishments

In addition to the accomplishments detailed above, we have recorded many other significant achievements in the past year. For example, we continued to improve our cost accounting procedures and internal controls, and received our seventh consecutive clean audit opinion from independent auditors on all of our financial statements. I am very pleased to report that in 2011, we officially closed all of the recommendations from GAO's General Management Review (67 out of 67). This is a notable achievement for us, and we have benefitted greatly from the improvements made to our programs and processes over the years.

In addition, our annual Building Services Customer Satisfaction Surveys continue to show that more than 90 percent of our customers are satisfied with the level of service the AOC is providing them. This is a testament to the commitment of our talented staff who are dedicated to putting customer service first.

Another area where we have made noteworthy progress is our Utility Tunnel Improvement Program. In 2007, the AOC entered into an agreement to address safety and health issues in the utility tunnels that provide steam and chilled water to most of the buildings on the Capitol campus. The work is progressing very well and we are on schedule and within budget to close all citations and meet the required completion date of June 2012.



In addition, we completed a number of projects this past year in our efforts to maintain and preserve the historic assets entrusted to our care, most notably, the renovation of the Bartholdi Fountain. This multi-year project involved restoring the sculpture at the center of the fountain as well as restoring and waterproofing the concrete pedestal. New energy-efficient plumbing and electrical distribution systems also were installed.

And, to assist us in setting goals, prioritizing initiatives, and streamlining processes, our team crafted a new five-year Strategic Plan for Fiscal Years 2012-2016. We are using the innovative ideas within the Strategic Plan, such as engaging cross-functional teams, to implement best practices to help us become even more efficient in our operations, drive quality improvements, and further enhance efficiencies and reduce costs.

Conclusion

Mr. Chairman, the AOC has made tremendous strides over the past few years to deliver projects on time and within budget, to enhance workforce flexibilities, to foster greater communication and transparency, and to build stronger relationships both with our clients and one another. We are looking to become world-class leaders in what we do, and in order to do that we must keep pace with the new strategies for facilities maintenance, energy conservation, security, and historic preservation. At the same time, we understand the challenges that an austere fiscal environment presents, and we have developed this budget in an effort to balance our stewardship responsibilities with fiscal responsibility.

To that end, we are effectively managing our resources – including personnel – to respond to these fiscally-challenging times. Through our thorough project planning and project management efforts, we are able to target resources and staff on the projects that are of the highest priority. Not only does this give us greater flexibility and better results, we have worked to reduce staffing throughout the agency. The AOC team is doing more with less – focusing on improving our operations, realizing more efficiencies and saving taxpayer money, which we can then reinvest in the areas and facilities in need of the most care.

Each day, we strive to embrace and embody the Core Values detailed in our Strategic Plan because the professionalism and integrity of each AOC employee demonstrates our dedication to providing quality services and our commitment to holding ourselves to the highest standards. We recognize that we do our best work through teamwork, each of us lending our individual strengths and talents to the greater goal of the entire team. We take great pride in what we do and in the honor of serving Congress and the American people.

This concludes my formal statement. I would be happy to answer any questions you might have.

RIGHT-SIZING STAFF

Mr. CRENSHAW. Let me point out to the subcommittee, this \$92 million increase is about 18 percent more than last year. And we recognize that a lot of your projects—or a lot of your costs are project driven, and then you also have some people issues, too. You have pointed to some of the ways you tried to control the spending.

You mentioned some of the things about FTEs, but I know in your request you are going to ask for some more. What are you doing in terms of the tour guides, and the gift shop employees, things like that, those kind of people as opposed to just a construction project? How are you dealing with the limited resources we have got there?

Mr. AYERS. So certainly regarding the Capitol Visitor Center tour guides and visitor assistants, I think we have about 130 of them now, there are potential savings that we can achieve there in the future by going to different shifts, or going to seasonal employment that enables us to ride out the peaks and lows and have the right number of people at the right time. So we are looking to implement that strategy this coming year.

Mr. CRENSHAW. Is that reflected in your budget request? I mean, are you anticipating being able to have some savings there, or are you going to end up needing more people?

Mr. AYERS. No, we anticipate savings from what we have requested.

Mr. CRENSHAW. Okay.

Mr. Honda, have you got a question or two before we go and vote?

SETTING BUDGET PRIORITIES

Mr. HONDA. Yes, very quickly. I guess the bottom line is this: That you have gone through your budget. You have trimmed and cut where you could, and done a great job of looking at your budget and looking at the future. So I appreciate that, and also appreciate that what you are putting into the budget are requests that are going to be help to us, and it is going to be impacting us most directly. There is no other agency you hide behind. There is no OMB or anybody else. This is it, folks.

But it is up to you whether you want to have the upgrades or do the safety or things that we need to do in terms of the infrastructure. So the responsibility is on our shoulders to make the decision whether we are going to move forward with the 17, 18 percent increase in this budget.

Having said that, if we say no, then we need to remind ourselves constantly that if something happens, that we make the decision on this household. If we don't want the chillers when it is hot and muggy, we have to remind ourselves that it was us and not pick up the phone and yell at you; or you can say, this is a recording. The leadership of the subcommittee made a decision on your behalf and, you know, suck it up.

And so I am just trying to let you know that I understand what it is you are trying to tell us, and that it is your recommendation, our decision, and so I appreciate that.

And I yield.

Mr. AYERS. We are hopeful, Mr. Honda, of being able to provide you the right tools to enable easy and swift decisionmaking with this project prioritization process—to make those decisions easy. We recognize that you will have to make some decisions, and it is our responsibility to make that easy and swift for you.

ADDRESSING WORKPLACE ISSUES

Mr. CRENSHAW. Mr. Bishop.

Mr. BISHOP. Thank you.

Mr. Ayers, I appreciate the challenges you have trying to maintain the old historic architecture and keeping it from deteriorating with less money.

Let me ask you about human resources issues. In September, Roll Call published an article indicating that the Office of Compliance had received 105 new requests for counseling and 86 new requests for mediation based on workplace harassment in fiscal year 2010. The majority of requests came from employees, former employees, applicants of the Architect of the Capitol, followed by the Capitol Police, the House, and the Senate.

What are you doing to address these workplace issues? Do you have a diversity officer? Do you have a policy on workplace harassment?

Mr. AYERS. Absolutely. First and foremost, Mr. Bishop, harassment is not tolerated in the organization in any way, shape, or form. If employees feel harassed, we do encourage them to air their grievances and to seek ways of redress through the Office of Compliance.

We certainly have an equal employment and conciliation program office and a diversity officer as the head of that organization. We have a great policy of no harassment in the workplace, and we resend that policy out every single year to reinforce that. So I think we have the controls in place, we take it seriously, and we work to resolve any grievances that we have.

The second thing that we are doing at the moment is, for the first time, we are doing an employee climate survey, which is ongoing right now. We send out a survey to all of our employees and ask them, what are the issues facing you? Are there harassment issues or any other kind of employment issues that you are facing that you haven't communicated to us? This is a great opportunity to do so. So we are looking forward to those results, and if we see those kinds of issues, we are going to put our focus and attention on them.

Mr. BISHOP. I appreciate that.

CAPITOL VISITOR CENTER MAINTENANCE

What have you found; has the maintenance for the Capitol Visitor Center been what you expected, exceeded your expectations, or has it been less than what you had anticipated? I know the costs are much, much greater than we anticipated in construction, but the maintenance and operations costs, are they more or less what you expected or what?

Mr. AYERS. So I think, generally speaking, we find that the quality of work has been good in the Capitol Visitor Center. I think we and our construction manager did a good job overseeing the con-

struction and holding the contractors and our designers' feet to the fire.

I think as in any new building that is now under your purview, as we walk through it day to day, and operate and maintain it, and have to change the light bulbs, and do the settings, we find things that we may have done a little differently. We find things are a little more complicated than they could be; and we are working to make it a little easier.

Today, I would say our maintenance costs are probably a little higher than what we expected, but as we get another year or two under our belts, and get the systems working in a way that we are comfortable in maintaining them, those costs will even out.

Mr. CRENSHAW. Let us stand in recess, and I think we will be able to be back in probably 15 minutes, if you don't mind sitting tight. The Members can come back if they can.

Mr. AYERS. Thank you.

Mr. CRENSHAW. We are in recess.

[Recess.]

EARTHQUAKE IMPACTS

Mr. CRENSHAW. Well, we are back, so we will call the meeting back to order. We have had questions from Mr. Honda, and Mr. Bishop, and Mr. Calvert joined us. Do you have any questions?

Mr. CALVERT. A 5.3 earthquake in California is like a rumble, but here it is a big deal. It's something to be concerned about. I understand you put many hours into fixing plaster, but there was no major structural damage. Is that correct?

Mr. AYERS. That is correct, Mr. Calvert, and we were surprised. You know, our old, unreinforced masonry buildings like the Capitol Building and the Cannon Building or the Russell Building really fared well, but our newer buildings that are steel framed with stone clad to the steel are designed to move a little more because steel obviously is a little more ductile than masonry. They moved, and our plaster surfaces had a number of cracks. We had a couple of water leaks, and that is about it.

Mr. CALVERT. Those of us from California feel those earthquakes all the time. They make us feel at home.

Mr. CRENSHAW. Were you here for the earthquake here?

Mr. CALVERT. No. I heard about it.

Mr. CRENSHAW. Okay. Well, plan on being here next time.

Mr. CALVERT. Okay.

Mr. HONDA. I saw it on my video conferencing, and I said, you all got an earthquake going on. It was a, what, 5.6, 5.3?

Mr. AYERS. 5.8, I think.

Mr. HONDA. It was like rocking in the cradle.

COGENERATION AT THE CAPITOL POWER PLANT

Mr. CRENSHAW. You have the cogeneration project and then the plant revitalization, I guess, there at \$26 million. Is the \$183 million, for the air conditioning?

Mr. AYERS. Absolutely, yes. We looked at all of our buildings and all of our projects, and put together a sort of a criticality matrix. We asked which of our facilities are most important to the mission of the Congress, and we are convinced that it is the Capitol Power

Plant, and the ability to make steam and chilled water to heat and cool our buildings so the Congress can undertake its work. If we can't do that, then the Congress can't meet here, and the Congress has to find another place to meet. So, making investments in the Capitol Power Plant are vitally important.

Mr. CRENSHAW. That is the other part of the power plant. Update us on where we are in terms of cogeneration, we can either finance it by direct appropriations, and I think last year you talked about almost a lease purchase kind of situation where somebody comes in and builds it, we pay for it over the years, and it is kind of like long-term financing, but it is a way to leverage our dollars.

Have we decided which way we are going to go? Please update us on that. First the cogeneration, because I would like to know how it fits in. Is it interrelated? It seems like one is the power, and one is the air conditioning, and you want to do them together. But first talk about the power part, and then we will talk about how you do them together or not together.

Mr. AYERS. There are two projects. One is revitalization of the ability to make cold water, meaning air conditioning; that is the revitalization project. The second is the ability to make heat in a more economical way, or steam.

This is cogeneration, and it is essentially a large turbine, like a jet engine. We intend to install two large turbines that make electricity and, in the process of making electricity, also make heat. We use the heat to boil water, to make steam, to heat our buildings.

So if we don't do that, we have to make an investment in our old coal and natural gas boilers that are 60 years old. And we think that a much better way to ensure continuous steam service is using much newer and proven technology such as cogeneration systems.

There are two ways to do that, as direct appropriations—and that could be \$80 million or more—or we can finance it. There is legislation that enables Federal agencies to finance energy-savings projects, and this would be an energy-savings project. So we could enter into an agreement with a private company that would install the cogeneration system. Our energy usage would be reduced. We would be saving that money that would typically be appropriated for energy, and we would use that to pay back our vendor over time.

So for us, we think that is the smart route to go. If we can use somebody else's money and save our appropriated dollars for focusing on our deferred maintenance and capital renewal work, that is smart business for us today.

Mr. CRENSHAW. Have you decided yet? Have we made that decision?

Mr. AYERS. Yes. We are moving ahead with that. In fact, we have used appropriated dollars to start the design work already.

Mr. CRENSHAW. Okay. And that makes sense. We are doing a lot more of that. You know, it is what the private sector does. We will end up paying; you know, there is a cost of money.

Mr. AYERS. Yes.

Mr. CRENSHAW. And we will pay for that, and that is part of it, otherwise we look at appropriations of \$80- to \$100 million. I guess GSA goes through a process, and they will pick somebody that will

finance it. They have gone through all of that kind of competitive selection process.

Mr. AYERS. Yes, and GSA has done that a number of times at their facilities.

Mr. CRENSHAW. Where do they rank in terms of priority producing the power versus fixing the air conditioning?

Mr. AYERS. Obviously, we have put both forth in our request, and we think both need to be done, and we think both need to be done now. But if we had to rank them, we would do the cogeneration project first and the revitalization project second.

REFRIGERATION PLANT REVITALIZATION

Mr. CRENSHAW. And there is \$26 million this year for revitalization.

Mr. AYERS. Correct.

Mr. CRENSHAW. When would we expect the air conditioning to be fixed? We always have issues in the summer, I guess. And I notice that you have got a program to deal with the surges and all those kinds of things. How long will that project take to complete altogether?

Mr. AYERS. There were two incidences this last summer where we had to run all of our available equipment to make cold water to air condition our buildings, and we had no backup. It happened twice last summer, and we get really nervous when we have no backup capacity either in heat or chilled water. So that is the first time I can recall that has happened. So I think it also talks about the need for reinvestment.

This is a three-phase project. The first phase is funded and under way. The second phase is this particular request of \$26 million, and then there is a follow-on third phase. So it is a number of years before we finish that third phase. It is certainly 2015, or 2016, or 2017 before that work is completed.

Mr. CRENSHAW. The sooner you start, the sooner you finish.

Mr. AYERS. Right. And the less expensive it is.

Mr. CRENSHAW. Mr. Honda, do you have any more questions?

HOUSE PAGE DORM

Mr. HONDA. Well, I was going to ask that question, but the facility that the pages lived in, what are the plans for the future of that facility? It is empty, and do we have any plans to utilize that?

Mr. AYERS. No, Mr. Honda, there aren't any current plans for use of that building, so we are simply maintaining it in a warm state right now until leadership thinks through what are the potential uses for that.

Mr. HONDA. So we don't think that we will ever go back to the pages? That is up to leadership—

Mr. AYERS. Yes, of course.

Mr. HONDA. Do we have staff on the Hill that—like interns, or fellows, or people like that that come here on a short-term basis? Are there needs for housing for them that can be provided through this process where they have housing, or perhaps not taking care of their food and things like that, but for shelter? Have you run that by the leadership or through your department?

Mr. AYERS. Certainly when it was reported in the media that the page program ended, there were a number of entities that wrote to the Congress with their interest in using that building, and one of those groups is the one you have mentioned. So we are aware of that.

Mr. HONDA. So what is the process?

Mr. AYERS. Well, in the House jurisdiction, the House office buildings, the space and assignment of space is all done at the Speaker's Office level. So it is really what the Speaker ultimately wants to do with that.

Mr. HONDA. Okay. Thank you.

Mr. AYERS. Or rather the House Office Building Commission, which is probably an issue of focus for them.

Mr. HONDA. Perhaps you can send us the membership of that Commission. Thank you.

Mr. CRENSHAW. Mr. Bishop.

Mr. BISHOP. I have no further questions.

Mr. CRENSHAW. Mr. Calvert.

Mr. CALVERT. When you switch over to the turbines, they will obviously take up a lot less space within the existing power plant facility. Are you going to demo the old boiler facilities, and remove them entirely?

Mr. AYERS. We have a building, and phase one of this project was to move some equipment out of a building, which we would then put the turbines in. So it would be an empty building that the turbines would go into.

Mr. CALVERT. Are you going to put sound insulation around those turbines also?

Mr. AYERS. Absolutely. They are like jet engines.

Mr. CALVERT. The noise is a common complaint in our area with the turbine technologies.

Thank you.

FEDERAL OFFICE BUILDING 8

Mr. CRENSHAW. Well, I think there is one thing that I think the subcommittee would love to be updated on. And I know when I go to the airport, I see that building, next to the Ford Building, that is being refurbished. It looks better and better, and I think there is \$8.2 million to finish the refurbishment. And I think most of the Members know this goes back to the Denny Hastert days when they were going to use that building, fix it up, use it in conjunction with the renovation of Cannon Office Building sometime down the road. But can you give us just an update on how that project is going?

Mr. AYERS. I would be happy to. So that is Federal Office Building 8. It is across the street from the Ford Building. It is a GSA-owned building. They are responsible for doing the refurbishment and reconstruction of that, and we are working closely with them as it is our intent to lease 200,000 square feet, or about half of that building, to enable us to execute the Cannon House Office Building renovation.

The work is progressing well. I think they are 50 or 55 percent complete with the core building, and then the interior build-out is about 25 percent complete. So they are moving apace, and we are

looking forward to using that as part of the Cannon House Office Building renovation as a swing space.

Mr. CRENSHAW. So I imagine that we will be signing a lease at some point. When would you expect that to be finished and a lease be negotiated?

Mr. AYERS. I suspect that GSA would like to have a lease signed right now. We have been pushing back, and ultimately, we will need to sign an occupancy agreement early this summer.

Mr. CRENSHAW.

Mr. Honda.

GARAGE SECURITY

Mr. HONDA. On the garage security. There is a lot of issues around the security in the garages, everything from cars to bicycles, to get through the garage over by Rayburn, and getting from one building to another. The parking that we have here on the Capitol, I see that all kind of as an integrated kind of a situation, and people are looking for different ways of getting around the Capitol, and one of them is bicycles. I understand that that is a big thorn in our side in terms of its safety because people say that they are getting ripped off all the time.

Are there—what do you call them—groups that are interested in these kinds of issues, including our chief of staffs, prior to a final plan being put together, are the chief of staffs and are the special-interest groups like bikers and everybody else—have they been included in the discussion of security in the garage, and just not our Capitol staff?

Mr. AYERS. Not that I am aware of. This particular project that is in our request this year is a physical security vulnerability that we need to fix, and it allows police officers to very quickly secure our garage spaces from potential threats.

Mr. HONDA. That is it?

Mr. AYERS. That is it. That is all it does.

Mr. HONDA. You are asking for \$7.3 million for the security project?

Mr. AYERS. And that has to do with a number of garages across the Capitol, both on the House side and the Senate side, enabling the police to secure those very rapidly when they see a threat coming towards the garage.

Mr. HONDA. Well, what is the money being used for?

Mr. AYERS. It would be physical construction.

Mr. HONDA. So they don't see it important to take in some of the groups that would be—that they would be securing the services for; it is not as important in terms of a discussion or some insights that they may have, other than just the security officers?

Mr. AYERS. Well, I wouldn't characterize it that way. I think it is a good suggestion, and why don't I take it—

Mr. HONDA. That is why I made it.

Mr. AYERS. I will take it back to the Police Board and get some input from those groups.

Mr. HONDA. Well, I think it should be done, because—

Mr. AYERS. It couldn't hurt. It could make it better.

Mr. HONDA. And it should be done before they do any finalization of the overall strategies.

Mr. AYERS. I agree.

Mr. HONDA. Okay. So we will know by—

Mr. AYERS. Give me a couple of weeks to come back and talk with the police, and get input on that project, and circle back with you.

Mr. HONDA. Okay. Thank you.

Mr. AYERS. Sure.

Mr. CRENSHAW. Mr. Calvert has a question.

Mr. AYERS. Sure.

GARAGE MAINTENANCE

Mr. CALVERT. I have a quick question. I am in the commercial real estate business, and I have noticed that the maintenance on your garage facilities has slipped over the years. You used to powerwash those facilities on a regular basis, and you no longer do that. What is the reason for the change? Is it environmental?

Mr. AYERS. Sure. We hope you don't see it, because we wouldn't want to do that kind of maintenance when Members are around. We do have a maintenance plan for our garages. Most of them are done with the ride-on equipment that does wash the floors. That is a really important aspect of maintenance for keeping salt, road salt, out of garages, and that helps with deterioration or preventing deterioration. So we have those pieces of equipment in all of our garages. We usually do that in the evenings or on weekends.

Mr. CALVERT. I've noticed an accumulation of dust on the elevated surfaces and around the garage facilities. I remember that twenty years ago, your agency used to use the hoses, just as they do in the commercial buildings. They would wash off the walls and the elevated facilities and keep the dust out of there.

Mr. AYERS. I am not familiar with that. I know we work very carefully on the floors, but I will certainly look into the ceiling, and walls, and fixtures in the garages.

Mr. CALVERT. It seems to me that your mobile machinery hits the garage surface, but it is not reaching a lot of the other areas where you have an accumulation of dirt.

Mr. AYERS. Yes.

Mr. CALVERT. You can look around any of the garages and see it. I thought there must be a reason why you weren't going after it.

Mr. AYERS. I am just not familiar with it, but I will certainly look into it.

Mr. CRENSHAW. Mr. Ayers, thank you very much for being here today, for your testimony, for your staff that has accompanied you. I have some more questions that I will submit for the record.

The subcommittee will stand adjourned until further notice of the chair.

Mr. AYERS. Thank you.

[Questions for the record follow:]

Questions for the Record from Chairman Ander Crenshaw
Fiscal Year 2013 Budget Submission
February 9, 2012, 10:00 AM

Committee on Appropriations Legislative Branch Subcommittee
U.S. House of Representatives

POWER PLANT COGENERATION/REVITALIZATION

Mr. Ayers you are requesting \$26.2 million dollars for Phase II construction of the “Capitol Power Plant Refrigeration Plant Revitalization” project. You currently estimate that the total cost of this project to be \$183 million dollars. In addition another project at the Plant is the “Cogeneration Management Program” that you anticipate being financed via a “Utility Energy Services Contract.” However, regardless if this project is financed or funded by a direct appropriation the estimated cost of this project is in the range of \$80 to \$105 million dollars. In total we are looking at an investment of \$263 to \$288 million dollars in the Power Plant over the next several fiscal years.

Question. For the benefit of all the Members could you briefly explain the Cogeneration Project and why this is a priority?

Response. The Capitol Power Plant plays a critical role in the AOC’s long-term energy conservation strategy, and the Architect of the Capitol is continually looking to make the appropriate investments in the Plant’s infrastructure and systems to improve its operations. Therefore, instead of investing in aging boilers that are beyond their useful lives, the AOC, with the assistance of the National Academy of Science, has completed its Strategic Long-Term Energy Plan, which identified options to help realize continued energy efficiencies and opportunities to save money. After careful review of several technologies that can further improve efficiencies and help meet future energy requirements, the AOC determined that incorporating Cogeneration at the Capitol Power Plant to generate on-site power would be the best long-term investment for the Congress.

Cogeneration is an important project for the Capitol Power Plant in that it effectively meets many different, specific and necessary requirements for the Capitol complex. Cogeneration will increase the overall efficiency of the Capitol Power Plant, which will reduce energy consumption and utility costs. As a result, Cogeneration allows the AOC to meet the Energy Policy Act of 2005, and Energy Independence and Security Act of 2007 energy reduction goals. In addition, Cogeneration will reduce emissions from the Capitol Power Plant. Lastly, Cogeneration will reduce the need to invest in the existing 60-year-old natural gas and coal boilers that are now in operation and decades beyond their useful lives.

In a Cogeneration system, natural gas fuels a turbine engine that produces steam and electricity. The steam the Cogeneration process produces provides heat to Congressional buildings and the electricity it produces will offset the Capitol Power Plant’s power requirements. Cogeneration

will increase steam and electricity reliability while reducing costs and emissions at the Capitol Power Plant.

Question. I understand the cost differential for Cogeneration depends on if a direct appropriation is provided or if the project is financed by a "Utility Energy Services Contract." Explain the two options? If one option is considered better than the other what would be your preference and why?

Response. The Architect of the Capitol is requesting to procure this Cogeneration system under a Utility Energy Services Contract (UESC) vehicle that is similar to an Energy Savings Performance Contract (ESPC). The Architect of the Capitol has been effectively using ESPCs over the past several years to realize energy savings in the House and Senate Office Buildings and in the Capitol Building. Both the UESC and ESPC programs are administered by the Department of Energy. These programs allow federal agencies to perform energy savings projects with the option to use appropriated funds for the entire project or to use appropriated funds for a portion of the project and finance the remainder. These are the two options for funding the Cogeneration project.

The estimated cost for design, construction, and management of the Cogeneration project is \$80M. The bulk of the funding is required for the construction portion of the project, estimated at \$63M. The total cost of this project, if financed, is \$105M including the estimated \$25M in interest on the privately financed construction loan.

Because of the significant annual energy savings of \$7.75M created by Cogeneration, the Architect of the Capitol will not require an increase in appropriations to repay the financing. Financing the construction portion of this project (\$63M) makes appropriated funds available for other critical deferred maintenance and capital renewal projects that cannot be financed under a UESC or ESPC, and therefore the AOC's preference is to use this process.

Question. What adjustments, within your current base, could you take to fund this project and avoid the \$25 million dollar financing charge and immediately realize the annual \$7 million dollar utility savings?

Response. The Architect of the Capitol has very limited options to fund Cogeneration within the current base. There are critical deferred maintenance and capital renewal projects, such as the Capitol Dome Rehabilitation, the Underground Garages, roof repairs, fall protection systems, egress issues and other life-safety and security projects that cannot be financed, and require direct appropriated funds. The Architect of the Capitol has and will continue to seek cost savings measures to apply funds toward reducing requests for project funds.

Question. What benefits, if any does the contractor realize from cogeneration?

Response. As with any contractor, bidding on an effort is a business decision on the part of that contractor. The Architect of the Capitol cannot speak for a contractor in this regard. As part of doing business with the Architect of the Capitol, the contractor will be held accountable for its work as there will be a requirement to measure and validate the Cogeneration system on an annual basis after the system is functional.

Question. The original project called for one cogeneration unit and now you are requesting two. Why the change?

Response. During the pre-design engineering analysis, the Cogeneration project team re-evaluated the initial electrical and steam constraints identified in the original Cogeneration project. Cogeneration systems operate most effectively when the site can utilize all of the steam and electricity produced such that the equipment operation can be maximized. The original project identified the electrical needs at the Capitol Power Plant as the overriding constraint. Further analysis and benchmarking identified other uses for the power produced and created an opportunity to utilize Cogeneration to meet most of the steam needs of the Capitol Power Plant. Optimizing Cogeneration for the Capitol Power Plant steam loads increased the number of units from one to two. This change results in a project with a shorter payback and increases the overall reliability of the Capitol Power Plant. Because of this increased reliability and shorter payback period, the AOC made the decision to change from one to two turbines.

Question. What is the increased cost?

Response. The single combustion turbine appropriated cost was \$45.5M. The two combustion turbine appropriated cost is \$80M; however, the two combustion turbine project has a shorter payback than the single combustion turbine project. The two turbine project increases steam production, which has an added benefit of avoiding approximately \$8M in boiler repairs that would otherwise be required in FY13.

Question. In the near future will we see a request for a third unit?

Response. No, the option of a third cogeneration system was evaluated by the project team, and it was determined that the addition of a third turbine resulted in a more costly project with a longer payback period, and will not provide for optimal Capitol Power Plant operations.

Question. Would you explain what the Plant Revitalization Project is?

Response. Last summer, the demand for chilled water, which is used to air condition Congressional buildings, was stretched to capacity. Had any of the current antique, operating chillers failed, the lack of air conditioning could have significantly impacted Congressional operations. The Refrigeration Plant Revitalization Program is a three-phase project to address significant structural, mechanical, and electrical needs of the West Refrigeration Plant. The West Refrigeration Plant's mission is to provide chilled water, utilized for air conditioning, to the Capitol complex buildings and other customers. A key challenge of this project is to maintain reliable operations throughout the construction period from FY12-FY18. Implementation of a phased approach for constructing infrastructure (chillers, cooling towers, pumps, switchgear) before removal of existing aged and failing components will enable uninterrupted cooling to the Capitol complex throughout this program.

- Phase 1 – Relocate existing chillers (installed 2003) from the inoperable East Refrigeration Plant to the West Refrigeration Plant Expansion (constructed in 2007). Anticipated FY12 construction award. These chillers are not usable in their current location due to failed and inadequate infrastructure.

- Phase 2 - Install two additional chillers and associated mechanical/electrical infrastructure to allow removal of the 1978 chillers in the West Refrigeration Plant. Anticipated FY13 and FY14 construction awards.

- Phase 3 – Revitalize the West Refrigeration Plant including structural, mechanical and electrical renovation to address deficiencies. The West Refrigeration Plant is an integral part of the Capitol Power Plant and is required to meet the air conditioning needs of the buildings served by the Capitol Power Plant.

Question. Do both of these projects, Cogeneration and Revitalization, need to go hand-in-hand?
Response. There are not significant inter-dependencies between the two projects. Both of these projects are critical to the Capitol complex. Both projects address aging infrastructure at the Capitol Power Plant that, if it fails, could result in an interruption to Congressional operations. As the infrastructure ages well beyond its useful life, failure becomes more likely.

Question. If we are unable to fund both of these projects how long could we put off on the revitalization and what would be the consequences?

Response. The Architect of the Capitol’s proposed strategy is to finance the construction of the Cogeneration project, which would allow for the Refrigeration Plant Revitalization program to continue to be funded in a phased manner.

The Refrigeration Plant Revitalization program is a phased program where each phase cannot proceed without the prior phase being completed. The result of not funding the FY13 request for the Refrigeration Plant Revitalization would delay the entire program until this phase is funded. The existing 1978 West Refrigeration Plant chillers must remain operational until the relocation of the existing East Refrigeration Plant chillers and the addition of two new chillers. As the 1978 chillers continue to age, there is a significant risk of chiller failure that could result in a lack of air conditioning in Congressional buildings, Library of Congress buildings, Supreme Court buildings and Union Station. A failure would lead to an increased probability of unforeseen chiller rental costs of approximately \$1.5M for the three month period to continue to provide cooling if the chillers were to fail. The rental chillers would be tied into the existing Capitol Power Plant electrical and chilled water piping systems. In addition, the unplanned maintenance and repair can be expected to increase as these chillers age.

Question. In fiscal year 2001 to 2007 the AOC was appropriated \$103 million dollars for the “West Plant Expansion Project. What was the difference between the “expansion” project and this “revitalization” project?

Response. The West Plant Expansion Project involved the construction of an addition to the 1978 West Refrigeration Plant that replaced the failing infrastructure in the East Refrigeration Plant. It also added capacity to provide air conditioning required by the addition of facilities maintained by the Architect of the Capitol, including the Capitol Visitor Center. Three 5,400-ton chillers were added during this project.

The Refrigeration Plant Revitalization program addresses the aging infrastructure in the original West Refrigeration Plant (completed in 1978) and structural issues associated with this building. This program builds on the work accomplished under the expansion by adding chillers to the expansion facility such that the Architect of the Capitol is no longer relying on the aged units in the West Refrigeration Plant to meet cooling demands. This project relocates two chillers and replaces four existing chillers.

Question. Currently, and for the foreseeable future, without revitalization does the plant have the ability to meet the needs for heat and chilled water for the Capitol and the clients serviced by the plant?

Response. Currently the Capitol Power Plant has the ability to meet the needs for heat and chilled water. However, to continue to make investments in 70-year-old boilers is not practical, and as this antique equipment continues to age, significant outages are more and more likely. In summer 2011, the Capitol Power Plant twice reached its capacity to produce chiller water used for air conditioning, and without necessary backup capacity, for either steam or chilled water, the Capitol Power Plant would be greatly compromised in its ability to meet the facilities' needs in the foreseeable future.

The Cogeneration project and Refrigeration Plant Revitalization program are being requested to address the problems associated with aging infrastructure before the failures result in impacts to the Capitol and the clients served by the Capitol Power Plant.

Question. I understand that one of the things to consider is the probability, if we have chiller failure, is chiller rental costs. What is chiller rental? What does it cost? What are the pros and cons, if any associated with chiller rental?

Response. Chiller rental is a way to supplement existing chilled water generation capability if a significant failure occurs in a facility's chiller system. Private companies maintain a fleet of chillers mounted on trailers to be deployed during these emergencies. The rental chillers would be required to meet the three-month peak summer air conditioning demand, if a significant failure of an old chiller were to occur. The 10 rental chillers would be equal in capacity to one of the existing 1978 chillers. The rental cost for three months is approximately \$1.5M. This cost includes renting 10 500-ton chillers with pumps and connecting to existing Capitol Power Plant electrical infrastructure.

Pros:

- Chiller rental provides the ability to recover from a significant failure within a week or two of the failure impacting the Capitol and the clients served by the Capitol Power Plant.

Cons:

- Air cooled rental chillers are much noisier than the current systems at the Capitol Power Plant and complaints from local residents are likely.
- The cost associated with renting chillers is not included in the Capitol Power Plant budget.
- Additional staff would be required to operate the temporary chillers resulting in higher overtime costs not included in the existing budget.
- Rental chiller space requirements would impact the ability of the Capitol Power Plant to function and perform other ongoing projects as the 10 tractor trailers would consume much of the available Capitol Power Plant site.

DEFERRED MAINTENANCE/CAPITAL RENEWAL

Question. Mr. Ayers, based on fiscal year 2011 reporting, as reflected in your fiscal year 2013 budget request, you state that you currently have deferred maintenance, excluding the Senate, totaling \$450 million dollars plus \$930 million in capital renewal. Can you give us a definition of deferred maintenance and capital renewal?

Response. Deferred Maintenance is defined as maintenance, repair, or replacement work on existing facilities and infrastructure that is past due causing failure or partial failure. Correcting Deferred Maintenance in facilities will return a component or system to an acceptable condition. In addition, it will prevent physical depreciation or loss in the value of a building (this does not include preventative or routine maintenance).

Capital Renewal is defined as making replacements in kind to correct unacceptable conditions caused by aged building components prior to failure. If Capital Renewal projects are deferred for an inordinate amount of time, physical conditions continue to deteriorate and become Deferred Maintenance. Capital Renewal may be performed by overhaul, reconstruction, or replacement of constituent parts damaged or deteriorated to the point where they cannot be maintained.

Question. Are the Capitol Power Plant and Dome Rehabilitation projects included in those numbers?

Response. Yes, some elements of the Capitol Power Plant and Dome Rehabilitation projects have been captured in the above Deferred Maintenance and Capital Renewal figures. However, not all portions of these multi-phased projects are included in estimated totals for the currently-identified Deferred Maintenance and Capital Renewal projects, as further explained below.

It is important to note that the Deferred Maintenance and Capital Renewal numbers indicated above are derived from cost models for work elements surveyed during the Facility Condition Assessment (FCA) process. The Architect of the Capitol conducts Facility Condition Assessments to identify liabilities in facilities and grounds so that issues are proactively addressed before impacting Congressional operations. The FCA information is used to develop projects that are then added to the AOC's Five-Year Capital Improvements Plan (CIP). The CIP is a living document – as more information is gathered through the FCAs, additional urgent projects are identified, and new and existing cost estimates are evaluated and refined.

When the Deferred Maintenance and Capital Renewal projects included in the FY 13 budget request were evaluated side by side in the CIP, the Capitol Power Plant and Dome projects rose to the top of the AOC's criticality matrix as most critical because not making necessary repairs and improvements could essentially prevent Congress from working in the Capitol Building.

Therefore, having gone through the CIP process, the Capitol Power Plant and Dome restoration projects are at a progressed state of design and cost validation. For the work elements contained in these projects, the cost estimate has been updated and refined from the initial Facility Condition Assessment cost models.

Question. Are projects under consideration with funding provided to the House Historic Buildings Revitalization Trust included in those numbers?

Response. Currently, the Cannon House Office Building Renewal project – a very poignant example of the consequences of allowing Capital Renewal projects to worsen into Deferred Maintenance – has been identified to be funded by the House Historic Buildings Revitalization Trust Fund. There are many FCA work elements that are included in the Cannon Renewal project whose costs are represented in the cited Deferred Maintenance and Capital Renewal numbers. Because this project has progressed well beyond the initial planning stages, there are additional costs associated with the Cannon Renewal project that are not represented in these numbers. As the project scope and design are further developed, these figures will continue to be refined.

Question. If the Power Plant, Dome and House Historic Buildings Trust are not included, what else is not considered within those numbers?

Response. The Deferred Maintenance and Capital Renewal numbers included in the Fiscal Year 2013 budget request are tied to the main facilities under each jurisdiction. Not included in those numbers are liabilities associated with the distribution tunnels and other underground infrastructure. As noted earlier, as more information is gathered through the Facility Condition Assessments and worked through the Capital Improvements Planning process, additional urgent projects are identified, and new and existing cost estimates are evaluated and refined.

Question. What would be the funding required to address all deferred maintenance, capital renewal and major projects such as the Power Plant and Dome, etc.?

Response. Deferred Maintenance and Capital Renewal numbers are derived from the Facility Condition Assessments (FCA) surveys. These cost projections constitute early planning models and are used to address potential liabilities within our facilities and grounds. As projects are developed using the FCAs as a starting point, scopes of work and cost estimates are refined based on study findings and design documentation.

Based upon FY 2011 reporting, and incorporating projects received in our FY 2012 budget request, we have approximately \$564,000,000 in identified Deferred Maintenance and \$1,039,000,000 in identified Capital Renewal work Capitol campus-wide that totals approximately \$1,603,000,000. While line item construction projects can be utilized to address these Deferred Maintenance and Capital Renewal liabilities, it is important to note these FCA work elements also are addressed by each jurisdiction with their operating funds during routine maintenance. This ongoing, dedicated approach to addressing necessary work helps to avoid larger and more costly line item projects in future years.

Question. Provide for the record a detailed listing of all deferred maintenance, capital renewal and major projects and your current estimate for each.

Response. The Architect of the Capitol identifies and continually updates Deferred Maintenance, Capital Renewal, and Capital Improvement work elements as part of the Facility Condition Assessment (FCA) process. This immense list of work elements represents raw survey data that is routinely utilized to identify initial project requirements that are, in turn, used to develop projects submitted as line item construction projects on an annual basis, as well as projects

funded through jurisdictions' operational funding. This survey data, consisting of Deferred Maintenance and Capital Renewal work elements is indicated in each jurisdiction's section in the AOC's Budget Justification. In addition, there are other drivers of project identification including client requests, statutory requirements, and Congressional operational or business requirements.

In this ever-changing environment, the AOC is constantly and consistently updating and re-evaluating the need for these numerous and necessary Deferred Maintenance and Capital Renewal work elements. The most urgent and most defined projects created from these work elements are included in the AOC's annual budget request as Recommended Line Item Construction Projects, and are indicated in the Budget Justification on page 11 of the "Overall Budget" section. Other projects that the AOC has developed, but has decided not to request are included in the Deferred Projects list indicated in the Budget Justification on pages 12 and 13. In addition, a number of other projects that are awaiting additional information gathered in the FCA and/or CIP processes are included in the total Deferred Maintenance and Capital Renewal estimates, but are not listed in the annual budget requests.

DOMES REHABILITATION

Mr. Ayers, you are requesting \$61.2 million dollars for the second phase of the Capitol Dome Rehabilitation Project. In fiscal year, 2011 you received \$20 million dollars towards the projected \$125 million dollar total dome rehabilitation. The \$20 million dollars provided addressed phase one of the project and that being the "Dome Skirt."

Question. Briefly explain the status of the phase of the project.

Response. The ongoing Dome Skirt restoration work includes repairing and restoring historic ironwork, sandstone, and brick masonry. In addition, old paint is being removed from the interior and exterior of the Dome Skirt and it will be repainted. The project is being completed in various stages in four separate quadrants. The Dome Skirt effort continues to remain on budget and on schedule for completion by fall 2012. The site will be demobilized in time to ensure there is no impact to the 2013 Inaugural preparations.

The next planned phase of the Dome restoration will be accomplished in three parts. Phase IIA entails the complete restoration of the exterior and interior face of the Dome shell from the level of the Peristyle to the base of the Statue of Freedom. Funding for this work is requested in FY13 and is scheduled to be completed in approximately 20 months. Phase IIB includes the restoration of the interstitial space and the systems within the interstitial space including the electrical, mechanical, lighting, roofing, communications, and fire protection systems. Funding for this work will be requested in FY14 and is scheduled to be completed in approximately eight months. Phase IIC involves the restoration of the Rotunda interior and First Visitor's Gallery space. Funding for this will be requested in FY15 and is expected to be completed in approximately 14 months. All remaining phased Dome restoration work is expected to be completed no later than fall 2016, in order to not impact the 2017 Inauguration.

Question. What is the entire scope of the project?

Response. The entire Dome Rehabilitation program consists of multiple phases that will ultimately restore the entire Dome from the bottom of the Skirt level to the top of the Tholos, including the restoration in the Rotunda's interior space and the First Visitor's Gallery.

- Phase IC restores the Dome Skirt. This phase of work is currently underway and consists of the complete restoration of the cast iron in the Dome Skirt face and interior support structure, restoration of the stone at the original Dome drum, replacement of the rain leader system and miscellaneous repairs. The next phase of the program, Phase II will be accomplished in three parts.
- Phase IIA restores the exterior and interior cast iron face of the Dome shell from the Peristyle level to the base of the Statue of Freedom. Work includes the specialized scaffolding at the exterior of the Dome, paint removal, restoration and repainting of the cast iron surfaces, new exterior fall protection system, repair of the glass and door restoration.
- Phase IIB restores the interstitial space and the systems within the interstitial space. Work includes new aluminum plate protection at the reverse side of the Apotheosis, installation of the maintenance access walkways, electrical, communications, fire alarm, lighting, air handling unit and ductwork replacement, roof repair and replacement, painting and stair restoration.
- Phase IIC restores the Rotunda interior and First Visitor's Gallery space. Work includes specialized scaffolding and access platforms in the Rotunda, sandstone cleaning, art monitoring system, cast iron repairs and painting, electrical, communication, fire alarm, duct work replacement and lighting upgrade at the First and Second Visitor's Gallery.

Question. It seems that the cost of this project has risen from about \$100 million to \$125 million. Why the increased cost?

Response. In the previous information provided to the Subcommittee regarding the Dome Phase II costs, the AOC did not include the Dome Phase IC Skirt cost of \$19.98M, which was funded in FY11 and is now ongoing. The Dome Phase II costs, which includes phases IIA, IIB, and IIC totals \$106.77M. The cost of the comprehensive Dome Rehabilitation program, including Dome Phase IC and Dome Phase II, is \$126.75M.

Question. Has the scope of the project changed?

Response. The scope of the program has not changed. The scope remains the same as defined in the original construction contract drawings produced in 2001.

Question. With the cost of some goods and services declining, as a result of the economy, are you not realizing cost reductions in the construction trades?

Response. There are recent occurrences where bids came in lower than estimated on Line Item Construction Projects. However, the cost of many goods and services that impact AOC projects have actually increased over the past several years. For example, according to the Bureau of Labor Statistics Producer Price Index, the cost of copper has decreased nine percent over the past 12 months, however, the cost of steel has risen 11 percent. Fuel prices have increased steadily each year since 2009, and although public spending has decreased, private nonresidential spending has increased over the past 12 months, driving labor costs up by two percent.

When cost avoidances were realized during recent project construction, the Architect of the Capitol presented Congress with proposed options to reinvest these funds and buy down a future

project. A recent example is the East House Underground Garage project that was bought down utilizing savings from other projects. It is also important to note that the AOC updates its cost estimates for projects annually to reflect the latest market pricing and labor rates.

Question. Has there been a re-estimation not only the dome skirt, but all the projects in this budget request?

Response. The current estimate is based on an independent consultant's estimate of the work. To ensure that our estimate for the Dome Rehabilitation-Phase II project reflects the most prudent estimating practices, a second independent consultant is being engaged to provide an independent estimate. This second independent estimate will be based on best practices for anticipated market conditions and project construction techniques. A reconciliation of the current estimate with the independent estimate will be performed to determine if the current estimate requires modification.

DIRECT DIGITAL CONTROLS UPGRADE, JMMD

Question. You have requested \$2.1 million dollars for Direct Digital Control Upgrades for the Library of Congress, James Madison Building. The Library of Congress resides within two other buildings besides the Madison Building. What plans are there for the other two buildings?

Response. The Direct Digital Control (DDC) upgrade program for the Library Buildings and Grounds jurisdiction is an energy-focused initiative. There are approximately 127 main air handling units in all three buildings. This initial request focuses on one of the most energy intensive buildings, the James Madison Memorial Building. This proposed project would provide DDC for 20 of Madison's largest air handling units. The remaining 40 units would be upgraded in the future with follow-on budget requests for consideration in the amount of \$2.1M in FY 14 and \$2.1M in FY 15 to complete the improvements in the Madison Building.

The DDC upgrade program ranks all three buildings in terms of energy usage and payback. Madison has the shortest payback (3-4 years) followed by Adams (6-7 years) and then Jefferson (approximately 9 years). The AOC anticipates future budget requests for consideration for the Adams Building in the amounts of \$2M FY 16, \$2M FY 17 and \$2M FY18 followed by budget request for the Jefferson Building in the amounts \$2M FY 19, 2M FY 20, and \$2M FY 21.

Question. You have stated that this project could be phased however execution of the entire scope provides a payback in less than 3 years. What is the entire scope of this project? What would be the required funding this fiscal year under a phased approach? What would be the payback under a phased approach? Why was this project requested under "General Administration" and not "Library Building and Grounds"?

Response. This initial \$2.1M request would provide DDC upgrades for 20 of the largest air handling units in the Madison building. This controls upgrade program for the Madison Building is set up as three incremental phases of \$2.1M each over three years. Each incremental phase would still have a payback of approximately three to four years. The Adams and Jefferson Buildings do not have DDCs. Upgrade projects for these two Library buildings would be separate requests as noted in the response to the previous question. The project was requested by

the AOC's Energy and Sustainability Division, which is a General Administrative office, where the AOC's energy conservation program resides. The project could be executed either in the Library Buildings and Grounds appropriation or the General Administration appropriation at the discretion of the Subcommittee.

UNION SQUARE

Question. The AOC recently took ownership of Union Square from the National Park Service. You have requested \$7.3 million dollars and 4 additional FTEs for a "Union Square Stabilization" program. Currently the National Park Service is conducting a study and assessment of the Grant Memorial. You have stated that the AOC plans to assess these results and perform additional assessments and studies. Considering the Park Service is currently studying and assessing Union Square is your request not a little premature?

Response. Union Square is the gateway from the National Mall to Capitol Hill and, as such, should reflect the grandeur and importance of the area. In addition, it should adequately address the needs of the Congress and the American people – this includes its overall safety and security. Following a visual inspection of Union Square by Architect of the Capitol staff, numerous safety deficiencies were identified that require immediate intervention to stabilize and address hazards. This includes making repairs to the reflecting pool, sidewalks, and steps. The results of a pending National Park Service (NPS) study will be utilized for the long-term maintenance and restoration of the Grant Memorial.

In addition, since the assessment being conducted by the National Park Service covers only the Grant Memorial, a portion of the funds requested will enable follow on assessments and design for the remainder of Union Square, which encompasses the reflecting pool, surrounding walkways and steps, the western landscape panels, and all associated infrastructure and utilities.

Estimates for maintenance and repair have been determined by using NPS cost figures as a starting point and then leveraging the AOC's experience in managing similar facilities, including but not limited to, the Senate Reflecting Pool, Bartholdi Fountain, and other water features throughout the campus, the James Garfield Memorial, and numerous other bronze sculpture and decorative elements, and similar landscape areas of trees and lawns receiving a high volume of event usage.

The request for four FTEs is for the on-going annual maintenance of these additional 11 acres that the AOC now is maintaining.

Question. How were you able to make such an assessment of your needs for funding and staffing when you just took ownership of the property less than two months ago?

Response. Initial estimates were based on the AOC's experience, and from the information gained from numerous conversations with National Park Service staff and management. AOC staff leveraged its experience in managing similar facilities and/or elements across the Capitol campus, and conducted several site visits and assessments, including the vault, immediately upon the transfer of Union Square in December 2011. In addition, for comparative purposes, the AOC

discussed with NPS and its contractors the project cost for the rehabilitation of the Lincoln Reflecting Pool, which is similar in size, scope, and complexities.

Question. Addressing pavement and hardscape repairs as your first priority what level of funding would be required this fiscal year?

Response. Supplemental monies in the amount of approximately \$700,000 have been identified in FY 2012 for immediate step stabilization and sidewalk replacement at Union Square. The National Park Service is completing an assessment of the Grant Memorial, and once completed, the AOC will analyze whether funding is sufficient to begin immediate conservation work on the memorial. Substantially more effort will be needed in FY 2013 for pavement stabilization, Grant Memorial Restoration, reflecting pool stonework rehabilitation, landscape restoration, and circulation/filtration pumps and motors installation.

ELECTRICAL DISTRIBUTION UPGRADES

Question. You are requesting \$1.8 million towards a \$31.8 million dollar “Electrical Distribution Upgrade” for the Alternate Computer Facility. This request is based on 50 percent completion of the “Critical Infrastructure Protection Analysis Study.” Since this study is only 50 percent complete is this request not a little premature? What, if any part of this upgrade is a result of the Police Radio project? You state that the ACF is operating as a Tier I facility with the need to upgrade to a Tier III facility. For the record explain what is a Tier I and Tier III facility? Why is there a need to upgrade to a Tier III facility?

Response. This design request is in sync with the study phasing, the first half of which focused on assessing the existing infrastructure, establishing priorities, and laying out the framework to bring the facility up to Tier III capabilities. The electrical distribution system was determined to be the highest priority shortfall, to include an assessment that its renewal needed to proceed at the earliest opportunity, so a parallel internal effort focused on developing its design request submission. The study has now progressed beyond the 50 percent completion as reported earlier, and is now nearing completion. The study’s electrical concept and layout is in the process of a 100 percent review, and its recommendations are consistent with this design request submission.

The study is not a result of, or driven by, the Police Radio project. The ACF Critical Infrastructure Protection Analysis Study was initiated independent of the Police Radio Project. However, the U.S. Capitol Police will be a common site benefactor from the upgrades made to the electrical distribution system. In fact, Tier III upgrades from this project will provide an economy-of-scale reliability assurance for all jurisdictional tenant partners alike.

The Uptime Institute, Inc. developed a tiered classification approach to site infrastructure functionality that addresses the need for a common benchmarking standard. The Uptime Institute’s system has been in practice for 10 years. It includes actual measured availability figures for site availability ranging from 99.671 percent to more than 99.995 percent.

Tier I data centers are susceptible to disruptions from both planned and unplanned activity. It has computer power distribution and cooling, but it may or may not have a raised floor, a UPS, or an

engine generator. If it does have a UPS or generators, they are single-module systems and have many single points of failure. The infrastructure should be completely shut down on an annual basis to perform preventative maintenance and repair work. Operation errors or spontaneous failures of site infrastructure components will cause a data center disruption. Tier I data centers experience an Annual Site-Caused IT Downtime of approximately 29 hours; yielding a 99.671 percent system availability performance benchmark. It should be noted that the ACF exceeds the basic requirements of a Tier I facility in certain electrical subsystems.

Tier III level capability allows for any planned site infrastructure activity without disrupting the computer hardware operation in any way. Planned activities include preventative and programmable maintenance, repair and replacement of components, addition or removal of capacity components, testing of components and systems, and more. For large sites using chilled water, this means two independent sets of pipes. Sufficient capacity and distribution must be available to simultaneously carry the load on one path while performing maintenance or testing on the other path. Unplanned activities such as errors in operation or spontaneous failures of facility infrastructure components will still cause a data center disruption. Tier III data centers experience an Annual Site-Caused IT Downtime of approximately 1.6 hours; yielding a 99.982 percent system availability performance benchmark.

In a review of the ACF Site's Electrical System, at the request of the Committee on House Administration, the House Inspector General conducted an inspection and provided Report No. 09-AOC-21 (November 2009). Several findings and recommendations were noted. As a criterion, the report stated that the ACF "should aspire to become a Tier III facility with the capability that would allow for any planned site infrastructure activity without disrupting the computer hardware operation in any way."

Finding #1 was that the ACF's Data Center Electrical Sources are Not Completely Redundant. In addition to some relatively minor recommendations, subsequently corrected, the House Inspector General noted that Substation J is a single point of failure and that a catastrophic failure in Substation J would eliminate power to both Uninterruptible Power Supply (UPS) A and B.

The AOC concurred with this recommendation and agreed to perform further analysis to determine what additional critical electrical system and subsystem loads, based on defined stakeholders' mission requirements, required a redundant site electrical infrastructure. This analysis was conducted through the Critical Infrastructure Protection – Key Resources study. Those recommendations, combined with the stakeholders' mission critical IT requirements, provided the basis for this design request.

ACF is a critical mission facility and redundant power sources are necessary to meet the current goal of 99.982 percent system availability. This would provide the allowance for any planned site electrical infrastructure activity without disrupting the computer hardware operation in any way.

CAPITOL POLICE RADIO MODERNIZATION

Question. Mr. Ayers the Committee has continued to provide support and oversight of the U.S. Capitol Police Radio Modernization Project in order to ensure the Department has this critical tool available to them. The AOC is one of three federal entities (Police, NAVAIR, AOC) involved in the overall project. Would you provide us with an overview of the AOC's efforts to date and what portion of the AOC's activities remain to be completed? This Committee is committed to the successful completion of this project and realizing that the majority of the funding provided will expire at the end of this fiscal year I would like for you to provide a detailed breakdown of each element of the project that the AOC is responsible for completing. This breakdown is to provide in specific detail each item, the projected and actual cost for each, an explanation of variances, and a breakdown of the AOC's cost to complete the project.

Response. The Architect of the Capitol's support of the United States Capitol Police (USCP) Radio Project is broken into multiple sub-projects that provide physical infrastructure for dispatch and data center systems, in-building Distributed Antenna Systems (DAS) and rooftop antennas, and leasing commercial sites for extended area coverage. The final estimate for all AOC infrastructure support to the project portion of the work is approximately \$21,090,000. To date, \$19,329,588 has been allocated to AOC; the difference between the allocation to date and the estimated cost to complete will be requested in USCP Obligation Plan 10 (OP 10). The level of AOC support to the project has increased significantly from initial estimates as the radio system design evolved, and as the AOC was tasked to execute portions of the project that were originally planned to be executed by other entities. The construction schedules for each of the sub-projects has been coordinated with USCP and has no impact on the USCP Radio Project "Go Live" date of spring 2013.

In each of the four sub-projects the Projected Cost is the baseline agreed with and utilized by USCP for overall program management. The project team considers the "baseline" to be the estimates existing in March 2010. For AOC there are two exceptions – the RHU/Fiber Point of Presence Room Build out and the Thurgood Marshall to USCP Headquarters duct bank, which were added in fall 2010, and variances reflect changes from that point forward. The baseline can also include estimates that were originally in the USCP budget but shifted to the AOC budget. For these items there was no increase to the overall project budget, just adjustments to the respective AOC and USCP allocations. The specific AOC sub-projects for physical infrastructure are:

Primary Site:

The AOC designed and constructed the Primary Data Center and Dispatcher Center consisting of 8,202 square feet located within the Alternate Computer Facility. It will house the Radio Network Control Sub-system, Dispatch Center, and office space. AOC construction was completed in June 2011.

Projected Cost: \$3,956,500	Actual Cost: \$4,549,303	Variance: \$592,803
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The cost variance was due to the following requested changes: upgraded emergency generator, cabling and transfer switch; additional computer room air conditioning unit, air handling unit and

roof supports; inclusion of a load bank for testing the emergency generator; and additional rack, lighting and power circuitry additions.

Mirror Site:

The AOC leased, designed and constructed the Mirror Data Center and Dispatcher Center consisting of 6,085 square feet located just off South Capitol Street, SW. It will house the Radio Network Control Sub-system, Dispatch Center, and office space. AOC construction was completed in July 2011.

Projected Cost: \$3,893,726 Actual Cost: \$4,287,235 Variance: \$393,509

The cost variance was due to the following requested changes as well as site cost increases due to final lease negotiations; inclusion of a load bank for testing the emergency generator; and power circuitry additions. A potential change order is currently being considered by USCP to reconfigure power distribution in the data center and provide a protected pathway from the Mirror Data Center to the rooftop antenna. The scope of this potential change order is still being developed so the cost has not yet been finalized and included in the above Actual Cost. A rough estimate is approximately \$250,000. If approved, this work will be obligated by contract during FY2012.

In-building DAS and rooftop antenna infrastructure, UPS and power distribution:

This work installs conduit between Remote Units (RU) and DAS antenna locations, infrastructure for roof top antennas, and for power (including UPS) to RUs. The DAS conduit is complete in all buildings to the maximum extent possible with exception of the ongoing efforts in the U.S. Capitol Building, James Madison Memorial Building, John Adams Building, and Thomas Jefferson Building. Final DAS conduit installation will take place once the radio equipment contracts are awarded, which will allow coordination with the vendor. Power distribution work has started in several campus buildings. Funding for UPS equipment was just approved by Congress in Operating Plan 9, and the equipment will be ordered in the near future. Equipment grounding work will occur during equipment installation. The duct bank from the Mirror Antenna Site to other leased USCP facilities is complete. The duct banks from the Mirror Antenna Site to the Capitol Power Plant and from Thurgood Marshall to USCP Headquarters are underway. The DAS infrastructure will be complete in summer 2012. The rooftop antenna infrastructure, UPS installation and power distribution for RUs will be complete in fall 2012. All funds will be obligated during FY2012.

Projected Cost: \$6,327,160 Actual Anticipated Cost: \$9,424,572 Variance: \$3,097,412

The cost variance is due to the following requested changes: inclusion of additional infrastructure requirements as the radio system design progressed, such as an increase in the number of DAS antennas and remote units; refinement of the UPS requirements; and installation of the power distribution system.

Off-campus Repeater Sites:

USCP is preparing the statement of work for all of the extended area coverage antenna locations. The AOC is currently negotiating leases for the four commercial sites and will execute construction of equipment buildings and physical infrastructure for all five locations. The fifth location is a U.S. government site that USCP is acquiring directly. The USCP funding includes leasing the four commercial sites for one year. After that the AOC has requested funds in FY2013 for another year of leasing and maintenance. The Actual Anticipated Cost assumes that the AOC will receive a separate budget for these costs on an annual basis and these costs are not included below. The below funds will be obligated prior to the end of FY2012 and construction will be completed in fall 2012. Annual costs will then need to be continued in FY2013 and in future years.

Projected Cost: \$211,050 Actual Anticipated Cost: \$2,828,890 Variance: \$2,617,840

The cost variance is due to the following items: At the time the Projected Cost was developed there was very limited information available upon which to base the estimate. The requirements were not yet defined and the number and location of the commercial sites had not yet been established. As the design evolved and particular sites identified through surveys, both the actual requirements and acquisition costs of the four sites have become more clearly defined.

RESIDENTIAL SCHOLARS CENTER

Question. Does the construction cost estimate for the Library of Congress Residential Scholars Center include all cost and sufficient contingency amounts? Does the construction estimate reflect current material costs and Davis-Bacon labor rates? What is the planned duration of the construction project? Please provide a time line for the record? Does the construction account for any restrictions such as nighttime and weekend work prohibition?

Response. The construction cost estimate for the Library of Congress Residential Scholars Center includes all construction costs and sufficient contingencies, inclusive of a 10 percent construction contingency, construction inspection services, government testing, and construction administrative support services from the designer-of-record. The latest construction estimate is dated September 2011, and reflects current material costs and Davis-Bacon labor rates. Following six months for procurement, 24 months of construction are planned, inclusive of six months for construction of a temporary childcare center, and 18 months for construction of the Residential Scholars Center. The project restricts activities such as nighttime and weekend construction in compliance with the District of Columbia's Department of Consumer and Regulatory Affairs requirements.

Question. A common view held by this Committee is the recognition of having to decide between WANTS & NEEDS. A need is something you have to have, something you can't do without. A want is something you would like to have. It is not absolutely necessary, but it would be a good thing to have. Understanding how you and your staff comprise your budget, coupled with your office's project prioritization process, which ranks these projects based on the condition of the facilities, and the level of maintenance required to ensure they remain functional and viable working environments. In your fiscal year 2013 budget you have requested \$242 million dollars for projects. Would you list three projects from this list that are NEEDS and then three projects you might consider WANTS.

Response. Over the past several years, we have refined our dynamic project prioritization process, which has contributed to our ability to identify and communicate to Congress the urgent need to invest in the historic and iconic buildings and infrastructure, and the resulting risks if these needs are not addressed. While our prioritization process ranks projects based upon the condition of the facilities and the level of maintenance required to ensure they remain functional working environments, we must also acknowledge that the prioritization process reviews each project for regulatory compliance, security, mission, preservation, economics and energy efficiency, and environmental quality. All our projects are needs, but we have prioritized those needs so that Congress can make informed decisions.

The following three projects are the most needed:

1. North Exit Stair B, Phase II, Thomas Jefferson Building
2. Garage Security Infrastructure, Phase 1A, House and Senate Office Building
3. Secured Storage Facilities, Phase IV of IV, Basement, James Madison Building

Question. When you begin your prioritizing of projects a large influencing consideration is the safety of those who visit and work on the Capitol grounds every single day. I recognize the importance of ensuring that safety and security. In fact, I have long maintained it is the number one job of the U.S. Congress to protect American lives, whether it is our soldiers overseas, our citizens on our homeland, or folks visiting this institution. When you start looking at cost cutting in terms of your budget, are there any portions of that budget which don't have a direct impact on safety?

Response. The AOC's prioritization process rates projects based on the conditions of the facilities and the anticipated urgency to invest in and maintain facilities to ensure they remain safe, functional and secure. The first priority is to ensure the health and safety of all those who work in and visit the Capitol campus. We prioritize based on six criteria: safety and regulatory compliance; security; historic preservation; mission; economics; and energy efficiency and environmental quality. Projects such as exit stairs, egress, garage security, Dome rehabilitation, roof fall protection, Union Square stabilization, electrical distribution upgrade, chiller replacements all have significant direct safety aspects.

In other cases, the AOC has a requirement to address projects that have a critical impact on clients' missions. These include projects such as Secured Storage Facilities, Collection Storage

Modules and restoration of the Brumidi corridors and the Senate Reception Room. Even these mission-oriented projects have elements of safety embedded in them. For example, the Library of Congress currently has safety issues with books being stored on the floor and on overloaded shelving within their buildings on Capitol Hill. Projects such as direct digital controls upgrade, although focused on energy efficiency, also impact the environmental conditions of the buildings and thus the health and safety of the occupants. Projects such as Federal Office Building 8 are directly linked to safety due to providing swing space to enable the refurbishment of the Cannon House Office Building, which is currently in fair condition and projected to be in poor condition by Fiscal Year 2016. The AOC is continually seeking efficiencies in projects, processes and operations to enable investment in life-safety Deferred Maintenance and Capital Renewal projects as we develop our budgets.

Question. For some of us, budgeting is second nature. For others, it seems a nearly impossible task. There are so many things to consider it's hard to decide where your funds should go. Setting priorities makes budgeting simpler. Priorities are somewhat subjective, and those within this Chamber often have vastly different priorities. But integral to successful budgeting is priorities. By keeping them in mind, we can resist impulse spending and make progress toward our goals. Mr. Ayers, you state that your core mission is to "Serve, Preserve, and Inspire." I will be the first to say you have a unique set of challenges. Since we have begun the FY13 Budget Cycle, this subcommittee has heard from five Agencies. Thus far, all five have submitted requests with modest increases:

- CBO request 1.9% above their FY12 level
- GAO requested 2.92% above their FY12 level
- The Library of Congress requested 2.77% above FY12 level
- The GPO requested NO INCREASE
- The Capitol Police request was the largest increase of the five with a 9.8% increase compared to their FY12 level

Mr. Ayers, your request is 18.9% above your FY12 level of funding. Additionally, you have requested to add seven Full Time Equivalents (FTEs) to your staff. How can you justify an 18.6% increase in funding and adding staff when almost every other agency is struggling with maintaining current staffing levels and seeking modest increases?

Response. In developing our Fiscal Year 2013 budget request, we worked to prioritize our efforts to ensure that every resource goes toward the most needed and most important work, realizing that we must balance our stewardship responsibilities with fiscal responsibility. As stewards of our national treasures, it is our duty to put forth a reasonable budget that we believe will best meet the need of our aging infrastructure, not doing so would be irresponsible. This huge responsibility has led to an increase in the FY 2013 budget request during fiscally challenging times. The key to balancing all of these responsibilities is to put forth our request in a prioritized way that provides Congress with the information they need to make sound and knowledgeable decisions to align our budget with available fiscal resources.

Questions for the Record from Ranking Member Michael Honda
Fiscal Year 2013 Budget Submission
February 9, 2012, 10:00 AM

Committee on Appropriations Legislative Branch Subcommittee
U.S. House of Representatives

WASTE TO ENERGY

Question. In November the Architect began using waste to energy. Please explain the process. How much energy is being produced? What types of emissions are being produced and how much?

Response. The waste-to-energy (WTE) process uses controlled flame combustion to burn trash to generate electricity. Although the process may vary between individual facilities, the general process is as follows: (1) waste trucked to the facility is emptied into a large area for staging, (2) the wastes are fed into an incinerator where they are burned to generate heat, (3) this heat is then used to generate steam, and (4) the steam is used to turn a turbine to generate electricity. The process generates emissions, which are sent through an air pollution control system before being vented to the atmosphere. The WTE process also generates ash, which must be either reused (e.g., as road bed material) or disposed of (e.g., in a landfill). The process reduces the volume of the incoming waste by up to 90 percent.

On an industry average basis, the WTE process generates roughly 600 kilowatt hours (KWh) of electricity for each ton of waste burned. AOC sends about 400 tons per month of waste to be burned for energy recovery. This equates to nearly 3 million KWh annually. Because the WTE process burns a wide variety of wastes, there are several different types of emissions that may be generated. WTE facilities are required to obtain permits from state regulatory agencies to regulate emissions. These permits are required to be protective of human health and the environment, are subject to oversight by the U.S. Environmental Protection Agency, and require the installation of an air pollution control system to control emissions.

CONDITION OF BUILDINGS

Question. The 2011 facility condition index has 2 house buildings, Rayburn and Cannon, rated as "fair". There seems to be a general consensus to undertake a significant renewal of Cannon. But what about Rayburn? What are the drivers for its fair rating?

Response. The drivers for the Facility Condition Index rating are the amount of Deferred Maintenance in a facility; the Rayburn House Office Building has a significant amount of Deferred Maintenance that produces its "fair" Facility Condition Index (FCI). The facility was first surveyed in 2004, and was recently updated in 2011. The majority of Deferred Maintenance involves the deteriorated condition of concrete in the garage. During the recent FCA update, a significant amount of Deferred Maintenance was identified for the stone façade including the

replacement of window gaskets. Additional work that is necessary in the building includes domestic hot and cold water system replacement and a phased program for preheat coil replacements.

The AOC has begun work on the design documentation to rehabilitate the RHOB garage and replace the hot and cold water system throughout the building. Both projects will entail multiple construction phases. The AOC anticipates the first phase of the garage rehabilitation to be considered in FY 2014 for construction funding. The funding of these construction projects will improve the building to a “good” condition.

Question. In addition to the House, the Library of Congress seems to have some of the highest numbers of buildings with deferred maintenance. The Madison building is relatively new compared to our other buildings, as it was built in 1980. Why does it have \$153 million in backlog needs?

Response. The James Madison Memorial Building was authorized by Congress in 1965, but construction was not completed until 1980. Since no major renewal has been completed on the facility since its construction over 30 years ago, many of its building components, systems, and finishes are at the end of their useful life. The AOC completed a facility condition assessment in the 2008 and 2009 timeframe, and while the AOC has not resurveyed the building, we continue to update some of the data as we learn more about projects impacting the building. Some of the Deferred Maintenance and Capital Renewal items that contribute to its poor condition include the following:

- Several Elevator Modernizations and the Escalator modernizations
- Roof Replacement
- Water Infiltration Repairs project includes repairing leaks in the terrace level stone paving; replacement of the plaza and planter waterproofing systems, replacement of the sixth floor roof terrace system; replacement of the exterior expansion joint; and repointing, caulking, and cleaning the full building façade
- Generator replacement
- Fire alarm replacement
- Electrical panelboard replacements
- Air Handling Unit replacements
- Water pump replacements
- Steam pressure reducing station replacements
- Utility fan replacement
- Interior finishes, including terrazzo flooring, repair and/or replacement
- Interior doors and hardware replacement and/or refurbishments

CANNON RENEWAL/FOB8

Question. What is the cost estimate for the Cannon Renewal? How firm is the estimate?

Response. The current estimate of \$752.7 million for the project is based on a 2009 Facility Study Revalidation, Facility Condition Assessments, building infrastructure studies, and other internal cost assessments concerning specific project requirements. These requirements include

replacing systems; installing modern life-safety and accessibility features; additional security requirements; stewardship responsibilities; hazardous material abatement; accommodations for modern technology; telecommunications modernization; energy efficiency upgrades; the build-out of temporary suites; and implementation and support costs.

The AOC is in the process of completing the Program of Requirements (POR) that establishes the scope of work, budget, schedule, and execution strategy. Schematic design work will be completed in 2012. The AOC is also in the process of selecting the Construction Manager as Agent (CMa) and the Construction Manager as Constructor (CMc). The CMa will assist the AOC in project and construction management. The CMc will provide constructability, estimating, and scheduling services during preconstruction, and then serve as the general contractor during the construction phases. The AOC will partner with the design team, CMa, and CMc in late 2012 to thoroughly review the POR and Schematic Design and finalize the execution strategy – ensuring the scope and schedule conform with the budget.

Question. How much is being requested for House leases? What would be the savings if those leases were consolidated in Federal Office Building 8?

Response. Currently the only location leased for House operations is Capitol View, which is leased for the House Committee on Ethics for \$265,000 annually. The General Services Administration estimates \$15 million per year.

UNION SQUARE

Question. You are requesting over \$7 million for Union Square stabilization. How much of this request is for immediate life safety issues?

Response. The Capitol Grounds Division intends to expend approximately \$700,000 of its FY12 monies on immediate life-safety issues now through September. The FY12 funds expended this year will be “temporary stop-gap” repairs to repair walks to remove tripping hazards, and fix loose and crumbling stone work and steps. The FY 2013 request addresses life-safety issues on a “permanent/long-term” basis in that it provides the planning, design, and initial construction dollars to eliminate unsafe existing walks, complete rehabilitation of the utility vault including installing a pump and filtration system, which has been inoperable for over three decades, and restoration of the badly vandalized and deteriorated Grant Memorial. In addition, the FY 2013 funding request will provide assessment and restoration of the Grounds lawn area to insure the health of two existing mature Legacy Trees, and restructure the compacted soil to improve water quality, eliminate runoff, and provide for a sustainable site lessening impacts to ground water quality.

FIRING RANGE

Question. Care and maintenance of the firing range is being transferred from the House jurisdiction to Capitol police buildings grounds and security. Why was that decision made?

Response. The Rayburn Range is a special purpose facility located within the footprint of the House Office Buildings (HOB) and carries its own unique requirements. The HOB staff currently provides all physical infrastructure maintenance and repair of the facility, to include the air intake and filtration system that supports the range and cleaning of the administrative areas. The environmental cleaning of the range itself and maintenance and repair of the target systems are budgeted for and contracted by the USCP. Both the HOB and USCP functions are included in the overall transfer to Capitol Police Buildings, Grounds & Security. As the officers clean their weapons lead particles can become distributed throughout the spaces so it is important that cleaning and maintenance staff working in the area are appropriately skilled. In addition, part of the support requirement is the regular abatement of the bullet trap. The USCP utilizes lead bullets for training so the trap must be cleaned semi-annually.

The HOB staff currently maintaining the range are proficient in maintaining and cleaning the House Office Buildings and the USCP contractors are qualified for their responsibilities, but it was jointly determined that centralized support with specialized skill sets would provide the best support to this highly utilized facility, especially when dealing with specialty systems that directly support the facility's mission such as an air exhaust system that removes lead dust from the air, targeting systems, lane dividers, ballistic materials, and the bullet trap. Special focus is also required for those areas where the officers clean their weapons to ensure that lead particles are captured in order to protect the health of the officers using the facility and staff working in the area. In addition, the decision included an assessment that including this specialized facility within Capitol Police Buildings, Grounds & Security and its Consolidated Facilities Management contract would extend the already highly focused support USCP receives for its other occupied facilities, such as Headquarters, Vehicle Maintenance, Kiosks, K-9, Offsite Delivery, Chemical/Explosive Storage, and perimeter security.

Question. Was the funding also moved?

Response. The Rayburn Range is a small part of the total area within the House Office Buildings so the staff and resources currently supporting the Rayburn Range are part of the general resources supporting the entire House Office Buildings. Consequently there is no anticipated decrease in funding or transfer to Capitol Police Buildings, Grounds & Security as a part of the jurisdictional transfer. The USCP fully support the FY13 transfer of their responsibilities.

Question. What measures have been taken to address the deposition of lead particles at the capitol police firing range?

Response. There are two concerns with lead inside the Rayburn Range. 1) Lead generated on the range itself in the process of fire arms training, and 2) the cleaning of weapons after training is complete. Currently there are no issues with on-range firing due to semi-annual lead abatement by USCP contractors. In addition, the HOB staff replace filters on the air handling unit serving the firing range as hazardous waste. The filters are double-bagged, removed,

transported, and disposed of as Hazardous Waste. The overarching concern for cleaning weapons is that the weapon cleaning station is in general administrative spaces, which leads to contamination of the administrative spaces such as break room, offices and a training room. To address this issue the AOC, in coordination with USCP, has conducted a study to renovate the Rayburn Range that would reconfigure its layout to mitigate the potential for lead particles to contaminate areas outside the firing lines and weapon cleaning areas. This study provides the Program of Requirements for a remodeled range that separates administrative areas from live ammunition areas and proves for improved air flow for lead particle abatement. The final submittal of the study is under review and the renovation will be considered, based on overall priorities, for construction funding in FY2014.

TUESDAY, MARCH 27, 2012.

U.S. HOUSE OF REPRESENTATIVES

WITNESSES

HON. KAREN L. HAAS, CLERK OF THE HOUSE
HON. DANIEL J. STRODEL, CHIEF ADMINISTRATIVE OFFICER
HON. PAUL D. IRVING, SERGEANT AT ARMS
MICHAEL T. PTASIENSKI, DEPUTY INSPECTOR GENERAL
KERRY W. KIRCHER, GENERAL COUNSEL
SANDRA L. STROKOFF, LEGISLATIVE COUNSEL
RALPH V. SEEP, LAW REVISION COUNSEL

OPENING REMARKS FROM CHAIRMAN

Mr. CRENSHAW. Let's have the committee come to order.

When we get to the question time we will observe the 5-minute rule.

We have three witnesses today. We are going to receive testimony from the officers of the House of Representatives. We have the Honorable Dan Strodel, the Honorable Karen Haas, Clerk of the House, and the Honorable Paul Irving, who is the Sergeant at Arms.

And, Paul, this is the first time you have appeared before the subcommittee. So we want to welcome you. I know you started your tenure in January, the day of the State of the Union. So you got thrown into the fire right away and did a great job. And so we welcome you and thank you for being here today.

Mr. IRVING. Thank you.

Mr. CRENSHAW. Also, we have Ms. Grafenstine, who is the Inspector General; Mr. Kircher, the General Counsel; Ms. Stroloff, the Legislative Counsel; and Mr. Seep, who is the Law Revision Counsel.

We are pleased to welcome all of you here today. We thank you for the work that you do, and that your employees do. We thank them for their dedication and service.

Members of the committee, this request is \$1.2 billion, which is the same as it was in 2012. I think it is important to note that since last January we have made tremendous efforts to do more with less, to try to rein in spending, to try to be more efficient, more effective, and we have reduced the House's appropriation by over \$143 million. That is about a 10½ percent reduction. That is a substantial savings. And we thank you for the work that you all have done there.

As we move through the hearing today, I hope that we can highlight some of the past efforts that you all have made and then we can focus on where we go. Because, as you know, the budget that is being proposed will actually spend less money than last year. So there is going to continue to be a lot of pressure on every agency

of State government. We are all going to have to be in this boat together to try to continue to be more efficient and to do more with less.

So, with that, let me call on Ranking Member Mr. Honda for any opening remarks he might have.

OPENING REMARKS FROM MR. HONDA

Mr. HONDA. Thank you, Mr. Chairman.

And I want to welcome the officers of the House: Mr. Dan Strodel, the Chief Administrative Officer; Paul Irving, the Sergeant at Arms; and Ms. Karen Haas, the Clerk of the House. We also have several other heads of offices with us today that submitted testimony for the record.

Mr. Irving, welcome to your very first Legislative Branch hearing. You have an enormous amount of responsibility in keeping the people and the buildings secure in our Nation's seat of democracy, an issue that I find of particular importance.

You come into this job as we continue to struggle to come to grips with what happened to our former colleague, Representative Giffords, in her home district. With declining budgets, you and our staffs will have to be innovative in finding ways to provide security in our district offices, which ranges from storefronts to Federal offices and government buildings. We on this subcommittee are committed to doing what we can within our allocated resources to aid you in your job.

As my colleagues may know, I also serve on the Budget Committee, where the markup of the Ryan bill just made the appropriators' jobs more difficult. I do not envy Chairman Crenshaw's position, having to craft a bill that may have to reflect the misguided realities of the Ryan budget, which cuts \$19 billion in overall discretionary spending from the budget control agreement levels. I would hope that the legislative branch is not targeted again, given that we are the smallest appropriations bill and yet the most needed in terms of running our offices.

The House of Representatives fiscal year 2013 budget request is relatively flat with the fiscal 2012 level of \$1.2 billion. Within that amount, the Members' representational allowance is flat at \$573.9 million. This level reflects a more than 11 percent reduction from fiscal year 2010 levels for the MRA. I hope that we can at least provide the budget request and stay at last year's level for office budgets.

During these times of declining budgets, I do think it is necessary to track the cuts' impact on operations, especially its impact on staff compensation. And, Mr. Strodel, last year for the record you indicated that there were no current plans to conduct a new compensation study, but, in my view, that is completely unacceptable. As a body, we need to understand how Members are implementing their MRA cuts and the effect on the legislative process, especially at a time when we are competing with the private sector to obtain and retain the best and the brightest. I fully expect you to work with both leaderships and conduct another staff compensation study.

In closing, I want to offer my willingness to work with the chairman to find ways to soften the blow to House operations as offices

continue to adjust to the new budget environment. This institution was here long before the Members you see before you and will be here long after. And I want this subcommittee to be remembered as good stewards of this institution when all is said and done.

With that, Mr. Chairman, I would like to conclude my opening remarks. Thank you very much.

Mr. CRENSHAW. Thank you, Mr. Honda.

OPENING REMARKS FROM CLERK OF THE HOUSE

Mr. CRENSHAW. When you talk about stewardship, you know that your offices have been reduced by 11 percent since last January. And those reductions are due in large part to the hard work that you all have put in to go over your budgets, and we appreciate that.

Your formal statement will be made a part of the record, please summarize your opening statements and also focus on how you have accomplished this very important task of trying to be more efficient and trying to do more with less. Talk about the way you have done it, and as we move to the future.

Members, we will ask all three of them to give their testimony, and then you can ask questions.

We will begin with Honorable Karen Haas, Clerk of the House.

Ms. HAAS. Thank you, Mr. Chairman, thank you, Ranking Member Honda, members of the subcommittee, for the opportunity to testify here today and for your support. I am pleased to update the subcommittee on the major initiatives that have been undertaken by the Office of the Clerk over the past year.

The Clerk's Office has played a significant role in the House-wide effort to increase transparency in the legislative process. In January, we launched a new Web site, docs.house.gov, that makes all measures scheduled for floor consideration available online in XML format. We are currently working on the second phase of the project and will expand the site to include specific committee documents.

Additionally, we have continued to upgrade HouseLive, which Web-casts our House floor proceedings. For example, we recently added a video-clipping tool as well as streaming capabilities for mobile devices. Shortly, we will release an embedded player that Members will be able to use on their Web sites to show House proceedings if they choose.

We have made technological improvements to the lobby disclosure process, automated the telephone directory system, and converted the distribution of Legislative Activity Guides from paper to electronic format.

We have accomplished all these goals on a reduced budget and with fewer personnel. The Office of the Clerk is currently operating on a budget that is 9.4 percent below the fiscal year 2011 appropriation. For fiscal year 2013, we have requested \$22,370,000, a decrease of 14.3 percent from fiscal year 2012.

In this difficult budget climate, we are all working hard to do more with less, and that will be extremely challenging over this upcoming year. With the recent passage of the STOCK Act, the Office of the Clerk will be responsible for designing and developing a new electronic filing disclosure system over the next 18 months for dis-

closure of reports filed with the House. CBO estimated it would cost the House and Senate approximately \$4 million to implement this system and an additional \$1 million annually to maintain the system. This expense is not currently reflected in our fiscal year 2013 budget request.

During the upcoming year, we will look to further automate our systems, cut costs, which we have already done, but will continue to constantly look for areas to save on behalf of the House. We will be looking to strengthen our customer service and, as always, look for the best return on our dollars spent.

Thank you for the time, and I look forward to working with the subcommittee collaboratively and for the challenges ahead. So please let me know if I can answer any questions.

Mr. CRENSHAW. Thank you very much.

[The prepared statement of Karen Haas follows:]

**The Honorable Karen L. Haas
Clerk of the House of Representatives**

**Statement before the House Appropriations Subcommittee
on the Legislative Branch**

March 27, 2012

Chairman Crenshaw, Ranking Member Honda, and Members of the Subcommittee, I appreciate the opportunity to testify before you about the operations of the Office of the Clerk and our Fiscal Year 2013 budget request. With your support and guidance, the Office of the Clerk has been entrusted with the resources we need to meet our duties and responsibilities to the House of Representatives. I thank the Subcommittee for its support over the past year.

As the Subcommittee is aware, the Office of the Clerk oversees a broad range of services for the House. At the heart of our mission, the Clerk's Office supports the core legislative functions of the House of Representatives.

SUPPORT FOR THE HOUSE FLOOR

Legislative Operations

On the House Floor, the Office of the Clerk ensures the integrity of the legislative process from start to finish. Bill clerks manage the introduction of bills and measures in the House. Official Reporters report and transcribe House Floor proceedings for the daily *Congressional Record*. Our tally clerks and Legislative Computer Systems staff operate and maintain the Electronic Voting System. Journal clerks prepare the constitutionally required *Journal of the House of Representatives*. Enrolling clerks prepare legislation that has been considered by the House for transmittal to the Senate or the White House. From gavel to gavel, our staff are hard at work on the frontlines and behind the scenes to make House Floor operations run smoothly.

Improved Transparency and Accessibility of House Floor Proceedings

The Office of the Clerk is developing and deploying new technology as part of a continuing effort to improve the efficiency and transparency of House Floor proceedings. The Clerk's Office has completed three major initiatives on that front. First, our Legislative Computer Systems staff developed and launched a new centralized website—docs.house.gov—to provide public access to the text of all measures scheduled for House Floor consideration, a major component of House Leadership's transparency initiative for the 112th Congress. The Clerk's Office also upgraded HouseLive.gov to deliver live-streaming video of Floor proceedings to mobile devices and provide video-clipping capabilities. Finally, the Office upgraded the House Floor Activities interface on the Clerk's main website, which allows Members, staff, and the public to track proceedings throughout the legislative day. This year, our Legislative Computer Systems staff will further enhance the Clerk's website and provide additional functionality to the HouseLive system, all in an effort to improve transparency and ease of use.

Our Legislative Computer Systems staff also will soon begin the third and final phase of a multi-year project to update the Legislative Information Management System (LIMS). This electronic system is used to process and track all legislation from its introduction on the House Floor to its signing by the President. It also provides the mechanism by which the minute-to-minute activity on the House Floor is compiled and made available to the public online. This modernization project began in 2000. The final phase of the LIMS project will include upgrades to the Legislative Activity Guide, a compilation of each Member's voting record; the Floor Action Reporting System; and the Legislative House Action Calendar System. These improvements will preserve the integrity of the legislative process while enhancing our

efficiency in managing legislative documents and making them available to the public through the Library of Congress' THOMAS system.

This year, the Office of the Clerk also will re-compete its closed-captioning contract for televised Floor proceedings. The House's current contract for closed-captioning services will expire at the end of the calendar year. The new contract will be a substantial but important expense that will keep House Floor proceedings accessible to the many Americans who rely on closed captioning.

Additional Support Services

Through our Capitol Services Group, the Office of the Clerk also supports the Members and Family Committee Room, the Lindy Claiborne Boggs Congressional Women's Reading Room, the Congressional Prayer Room, and attendant services for Floor operations. In addition, our Art and Archives staff curate the House's collection of historic art and artifacts displayed on the House Floor and throughout the Capitol complex.

SUPPORT FOR HOUSE COMMITTEES

The Office of the Clerk also supports House Committees in fulfilling their legislative responsibilities. Official Reporters from the Clerk's Office report and transcribe Committee hearings and markups. Information on hearings and markups is compiled by our staff and entered into the Legislative Information Management System, which in turn is used by the Library of Congress for its THOMAS bill tracking system. Our archival staff assist Committees with the proper management of their records, which must be permanently retained and archived in accordance with House Rules. Our curatorial staff manage and care for the portraits and other fine art on display in Committee hearing rooms.

Our Legislative Computer Systems staff will undertake a significant new project this year to design and develop a centralized website for Committee documents. This website will expand on the docs.house.gov Web portal that already provides an online repository of legislation scheduled for consideration on the House Floor. When the project is completed, House Committee documents will be made available in one location in open formats such as searchable PDFs and XML. This project represents the second phase in the House Leadership's transparency initiative.

Our Legislative Computer Systems staff are also responding to numerous requests from Committees for technical support to assist them in making their reports available in XML. The Clerk's Office expanded the deployment of XMetaL, a cutting-edge XML-authoring tool, to Committee offices and has continued to collaborate with the Senate and the Government Printing Office on setting consistent standards for authoring in XML. Committee demand for our staff's expertise in this area is likely to grow.

MEMBER SERVICES

The Office of the Clerk directly assists Member offices in fulfilling their numerous responsibilities as well.

House Library

The Clerk's Office continues to leverage our resources House-wide to assist Member offices that are tightening their belts. For example, in January, the House Library made a powerful research tool—ProQuest *Congressional Basic*—available to all House offices, including district offices. The House Library, a legislative, law, and general reference resource, also offers research and reference services to assist House staff in providing timely information and advice to their Members of Congress.

In the coming year, the Office of the Clerk will explore additional opportunities to expand the accessibility of House Library resources to Member offices. For example, the Library will continue its efforts to preserve and digitize its existing collection, which dates back to 1792. The Library recently digitized a large volume of historic Member voting records that had previously been stored on microfiche, and it will continue digitizing these and other original House documents frequently requested by Member offices. Finally, the Clerk's Office will continue to look for a suitable space for a functioning House Library Reading Room. Our goal is to provide a one-stop research facility for Members, their staff, and the staff of the Parliamentarian, General Counsel, Legislative Counsel, and Committees who rely on the House Library's services to fulfill their legislative responsibilities.

House Employment Counsel

The Office of House Employment Counsel provides Members, Committees, and other House employing offices with employment law assistance on a strictly confidential basis. In addition to providing legal representation, the Office of House Employment Counsel provides training and advice to assist offices in complying with the Congressional Accountability Act.

House Telephone Directory

This year, our Legislative Computer Systems staff are developing a Web-based system for creating the House telephone directory, an essential resource for Members and staff. When completed, this system will improve the ease and efficiency of compiling and updating the directory on an ongoing basis, saving both time and money.

Records Management and Archival Services

The Clerk's Office also provides Members with assistance in archiving their papers. Under House precedent, a Member's personal legislative records remain the property of the

Member even after the Member leaves office. Our archivists provide Members with consultations and assistance with deeding their papers to universities or other research facilities upon their departure from the House, should they choose to do so.

Management of Vacant Member Offices

When a Member office becomes vacant during a Congress, the Office of the Clerk administers that office until a successor is elected. During the 112th Congress, the Clerk's Office has managed seven vacant Member offices (New York 26th, California 36th, Nevada 2nd, New York 9th, Oregon 1st, Arizona 8th, and New Jersey 10th). Administration of these offices is a statutory responsibility of the Clerk, requiring time and other resources to ensure appropriate operation and management consistent with public law and House Rules.

MANAGING PUBLIC DISCLOSURE

Another significant area of responsibility within the Office of the Clerk is the management of an extensive public disclosure system for the House. Our Legislative Resource Center administers the numerous disclosure requirements of the Lobbying Disclosure Act and the Ethics in Government Act.

Lobbying Disclosure

Under the Lobbying Disclosure Act, the Clerk's Office operates an electronic filing and disclosure system for new lobbying registrations, quarterly lobbying activity reports, and semi-annual lobbying contribution reports. Our Legislative Resource Center and Legislative Computer Systems staff administer and maintain this filing and disclosure system on a continuing basis throughout the year. Nearly 5,000 lobbying registrants representing approximately 17,300 clients and 15,000 individual lobbyists are currently registered with the Office of the Clerk. The Office processed more than 140,000 lobbying disclosure filings last year.

In January, we began the planning process for developing Web-based filing systems for lobbying registration and quarterly disclosure reports with our partners in the Senate. Once completed, this upgrade should significantly improve the ease of filing and enhance the disclosure capabilities of the lobbying disclosure system.

Financial Disclosure

Under the Ethics in Government Act, the Clerk's Office receives and compiles all financial disclosure reports that must be filed with the House, provides them to the Committee on Ethics, and makes them publicly available. In light of House and Senate consideration of the Stop Trading on Congressional Knowledge ("STOCK") Act, the Office of the Clerk soon may be required to design and develop an electronic filing and disclosure system for all financial disclosure forms filed with the House by Members, Officers, candidates, and staff. If enacted, this new mandate would require the Clerk's Office to expend significant additional labor, software, and hardware resources to complete the project within the required timeframe, currently 18 months under both the House and Senate versions of the bill.

Additional Disclosure Responsibilities

The Office of the Clerk also administers the public disclosure process for foreign travel reports and expenditures, gift and travel filings, post-employment notifications, and all other disclosures, as required by law or House Rules, through our Legislative Resource Center.

PRESERVING THE HERITAGE OF THE HOUSE

With the support of this Subcommittee, the Office of the Clerk continues to fulfill our mission to meet the House's archival, historical, and curatorial needs. The official records of the House, under the Clerk's care since 1789, continue to grow in quantity and complexity. In the 111th Congress, we experienced a 30 percent increase in the number of archived House records

for a total of 3.4 million records. This was accompanied by a marked increase in electronic records that is likely to expand in the 112th Congress. We are planning to allocate resources accordingly, particularly to meet the growing demand for managing electronic records and media (such as photographs, DVDs, and video and audio recordings).

The Clerk's Office is also the custodian of art and historical artifacts in the House. Last year, our curators cared for the House's fine art collection in the aftermath of the earthquake that affected Washington, DC, moving 88 paintings from seven Committee hearing rooms that suffered damage. The Clerk's Office also supports the staff of the Office of the House Historian and their ongoing effort to make the House's treasury of primary resources available online to researchers, educators, and the public.

CONTINGENCY PLANNING

The Clerk's Office works closely with the other House and Senate Officers to ensure we are prepared for any emergencies that may confront the Legislative Branch. The recent earthquake in Washington underscored the importance of continuous review and improvement of our emergency planning with all of our partners in the legislative process.

PERSONNEL

To fulfill this wide range of responsibilities, the Office of the Clerk relies on our highly professional, diverse, and experienced staff. As the Office continues to reduce our budget, relatively few new hires have been made in the Clerk's organization. The Office has focused on affording professional development opportunities to its current workforce by providing training, a collegial and supportive environment, and opportunities for advancement within the organization.

Three notable changes to our staff structure occurred over the past year. First, we transferred five positions from the Office of Publication Services to our Legislative Resource Center, which streamlined our printing and customer service. The Office of Publication Services was subsequently reorganized into the Office of Communications, which provides creative services to the Clerk's Office and other House organizations. This reorganization improved our services to the House at a lower overall cost. The Office also coordinated the closure of the House Page Program. As part of that process, the House Historian's staff worked to carefully document the history of the program. In addition, we completed the process of merging the staff of the Office of the House Historian with the Clerk's history staff. This combined staff reports to the House Historian but benefits from the administrative support of the Office of the Clerk. This merger successfully met our goal of eliminating overlapping responsibilities while promoting greater efficiency with budget savings.

FY2013 BUDGET REQUEST

As we review the operations of the Office of the Clerk, we continuously look for innovative ways to reduce costs without compromising quality. By strategically investing our more limited resources in technology that supports our organization—such as upgrading the Legislative Information Management System, moving to a Web-based telephone directory system, developing a fully Web-based lobbying disclosure system, and digitizing House records—we are achieving our goal of significantly improving operational efficiency in a way that brings down costs. In this way, we truly can do more with less.

We have diligently looked for ways to reduce printing costs this past year by shifting to an electronic distribution of Legislative Activity Guides, saving 120,000 pages of paper per Congress. We halted the automatic distribution of printed bills and resolutions from the House

Document Room. And we reduced the printing of official Member and Committee lists by 13 percent. The migration from printed to electronic documents remains a priority.

We have also looked to reduce our technology expenses. For example, we have delayed our normal workstation lifecycle replacement schedule by a year from FY2013 to FY2014, thereby achieving cost savings for the House.

At the same time, we anticipate that demands on our Floor, Committee, and Member services resources will grow. And we will play an integral role in the continuing effort to make House proceedings more transparent and provide immediate access to electronic documents in a more open-data format. At the same time, we will continue to work diligently to contain costs and be wise stewards of taxpayer dollars. For FY2013, we are requesting \$22,370,252 to carry out our operations. This is \$3.7 million less than our current budget allocation, a 14.3 percent budget reduction.

I appreciate the opportunity to appear before the Subcommittee today. I am ready to assist you in any way throughout the development of the FY2013 spending bill for the House, and will be more than happy to answer any questions you may have.

OPENING REMARKS FROM THE CAO

Mr. CRENSHAW. Mr. Strodel.

Mr. STRODEL. Good morning, Mr. Chairman. Thank you very much, Members of the Committee.

The full testimony, as you indicated, has been submitted for the record, and I will summarize it as best I can. I think the most critical thing to realize is three House Officers working together, implementing across-the-board reductions, yet still being able to deliver critical services to the institution and to the House community.

I believe the reduction that was implemented last year was unprecedented, as far as I can recall, during my time here. I do recall in 1985 something called The Gramm-Rudman-Hollings Act, which was a budget law that was implemented even in the legislative branch. Certain measures were taken and my recollection is that maybe five or six people lost their positions. But what occurred during this past fiscal year in the CAO organization was a drastic reduction both of non-personnel and personnel expenses.

It cannot be emphasized enough how significant those choices are while still being able to deliver high-quality, effective and efficient services in this environment. It couldn't have been done, Sir and Members of the Committee, without the teamwork and leadership from this Committee, specifically Liz Dawson, Chuck Turner, Shalanda Young, Jenny Kisiah, the CAO budget staff with the Deputy CAO and CFO. There is constant interaction with the Committee, making sure we are on the same page and we are executing the House's budget according to the plan.

Additionally, as I indicated, the House Officers are walking down the road together. This is a very, very difficult budget environment. We have rolled up our sleeves, we are talking, we are sharing services where we can, and we are looking at ways to do things more effectively and innovatively.

Finally, this year, we received our 14th consecutive clean audit opinion on our annual financial statement. But more importantly, we have improved our internal controls through a comprehensive internal controls program to support the significant investment that the House makes in these resources, particularly as it relates to information technology and overall as it relates to financial management.

This is a grave budget environment. I feel like we are running forward as best as we can, as effectively as we can. We have used the tools that the Committee suggested, particularly zero-based budgeting. I can talk a little bit more about the subscriptions savings and FEDLINK, if we want to, in questions. I don't want to take too much time.

And, with that, Mr. Chairman, I will turn back my time and look forward to any questions you may have.

Mr. CRENSHAW. Thank you very much.

[The prepared statement of Daniel Strodel follows:]



CAO Chief Administrative Officer Budget Request — Fiscal Year 2013

Testimony

Daniel J. Strodel

Chief Administrative Officer

U.S. House of Representatives

Before the

Subcommittee on Legislative Branch

Committee on Appropriations

March 27, 2012

Summary

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you to discuss the Fiscal Year 2013 budget request for the Office of the Chief Administrative Officer (CAO).

Let me begin by expressing my gratitude for your continuing support of the CAO's office. We look forward to working with you on this budget request and all other issues during the forthcoming year.

Our FY13 Budget Request is \$116,782,000, the same level as our FY12 Appropriation. Building on our efforts during the FY12 budget formulation cycle, we continue to hold the 38 positions we froze in January 2011. We also continue to reduce contractor costs where possible and, with the support of the Committee on House



CAO Chief Administrative Officer Budget Request — Fiscal Year 2013

Administration (CHA), aggressively negotiate better contract terms with vendors. These negotiations have yielded more than \$10 million in savings for the House.

In the second half of 2011 we launched two major initiatives: a reorganization to streamline our internal operations and better meet the core needs of the House community, and a Zero-Based Budgeting (ZBB) methodology to ensure our business units run at the highest level of financial efficiency.

The CAO's mission is to provide the highest quality services and technology that support Members as they conduct the House's business. Approximately 80 percent of our budget, including personnel costs, is dedicated to data and voice network; infrastructure and security; mail delivery and security; software applications; furniture and furnishings; and financial services such as payroll, payments, and audit support.

CAO Reorganization

In early 2011, when we knew substantial budget reductions were likely for FY12, we evaluated our operations. Our goal was to reduce our budget without reducing the quality of service we provide to the House by becoming a leaner, more efficient organization. Through the evaluation process, the CAO pinpointed the most essential services required by the House community --- information technology and security; finance, budget and payments; acquisition of goods and services; and management of furnishings and logistics --- and focused resources accordingly.

We disbanded the Strategic Initiatives Business Unit by shifting its core operational activities to other areas, and we established two new business units to realign priorities. The



CAO Chief Administrative Officer Budget Request — Fiscal Year 2013

CAO now comprises five business units dedicated to the services most needed for effective House operations: the Office of Acquisitions Management, the Office of Finance, House Information Resources, the Office of Human Resources, and the Office of Logistics and Support.

The new structure eliminates previous duplication among services and streamlines processes for more timely responses to Member and staff requests. Through these efforts, the CAO is better suited to continue providing the highest level of service, even as budgets remain tight.

Zero-Based Budgeting

Implementing a Zero Based Budget methodology to prepare our FY13 request took this streamlining process even further. To execute our Zero-Based Budget, the CAO business units performed an internal line-by-line review of all Projects, Programs, and Activities (PPAs) under their purview. In this review, Projects described specific investments or improvements that have a start and end date, Programs were defined as operations large enough to take up 10 percent or more of the business unit's budget, and Activities captured the services, functions, and duties we perform that generate outputs for CAO customers. Our Finance office then reviewed the PPAs against our essential services and, working with the business units, revised them according to current and future priorities. We began the process with 219 PPAs and ended with 127.

Each PPA analysis included an overview of services provided, requirement for services (e.g., CHA regulation, public law, or Member request), impact if service was not

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funded, and performance measures associated with meeting the expected goal or target for that particular PPA.

Over the course of two months, PPA justifications were submitted and we held extensive meetings where each CAO business unit presented, discussed, and revised its submissions. Final proposals were then submitted, and executive level meetings were held to prioritize PPAs from a CAO-wide perspective. During this review, some PPAs were eliminated and others were elevated in status.

The Zero-Based Budgeting effort allowed the CAO to focus on our core mission and make strategic and critical decisions on services and investments within expected budget levels. The CAO met this goal through internal redistribution and realignment of funds, which allowed for improvements in areas such as internal controls, information security, digital mail, and the PeopleSoft financial system. As a result, the CAO FY13 budget request remains flat without jeopardizing current services provided to the House community.

Technology Improvements and Initiatives***PeopleSoft Improvements***

Thanks to the support of this Subcommittee and the Committee on House Administration, the CAO implemented the PeopleSoft financial system in October 2010 for use by the CAO, Office of the Clerk, Office of Inspector General, Sergeant at Arms, Law Revision Counsel and Office of General Counsel. During the first year of this major accomplishment, the CAO focused on stabilizing the production system, adding reports and a

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limited amount of new functionality, and retiring and archiving old financial and fixed asset systems and data.

This past year, we have begun to implement several benefits provided by this robust, sophisticated financial system. We have rolled out “inquiry access” so that Members, Committees, and Leadership (MCL) offices can see their budgets and view the real time status of vouchers and purchase orders. Currently, 114 offices have this access; many more offices will soon have this capability.

During FY12 and FY13, we will expand and enhance PeopleSoft functionality even more. Projects include: electronic voucher processing; document management and storage; contract management improvements; budget and planning software implementation; and software upgrades that ensure ongoing improvements to this significant investment. The FY13 budget request includes funding for outside contractor resources to assist our staff in PeopleSoft functional and technical support, system improvements, and server and database administration.

Electronic Voucher Submission Project

The electronic voucher (E-Voucher) and digital document management solution under development will work seamlessly with our PeopleSoft financial system. This new solution will make managing accounts payable easier for all House offices, reducing administrative costs and increasing efficiency within the CAO Office of Financial Counseling.



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The CAO will continue to accept hard-copy vouchers, but offices that utilize the E-Voucher process will see significant benefits, including streamlined preparation and submission of vouchers, better control of accounts payable, greater transparency into the payables process, and reduced administrative overhead. Once the E-Voucher project is implemented, the CAO will explore using this technology to streamline and improve other House processes, such as contracting and payroll processing. We plan to continuously improve service and ensure a growing return on our initial PeopleSoft investment.

Remedy Work Ticket and Furniture Inventory System

In addition to expanding PeopleSoft's functionalities, our technology team is expanding the Remedy work ticket tracking system's capabilities. During the past year, the CAO has added an email notification feature for work tickets, tracking leases, and furniture inventory.

We're also improving Remedy's ability to track Franking requests for the Committee on House Administration. In May 2012, the current Franking system will be enhanced so that Members can enter their own Franking requests via a self-service portal.

In June 2012, the Remedy team will begin integrating the Remedy Asset Management Furniture Tracking system with Radio Frequency Identification (RFID) technology that will facilitate the scanning, tracking, and updating of asset records.

We anticipate adding self-service furniture requests through the Service Request Management (SRM) module in the near future. This module allows the CAO to easily define and publish available services in a service catalogue and then automate the request and fulfill



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those services. The implementation and pilot launch of the self-service catalogue is scheduled for fall 2012. These improvements will enable quicker transaction processing with fewer errors. Additionally, the Remedy team will upgrade the program's software to the latest version.

Expanded Wi-Fi and House Cloud File Services

The CAO continues to add wireless access points to the more than 750 currently active on the House campus. These wireless access points provide Internet access to staff and public guests via "HouseAccess" and "HousePublic" in each Member office, every House cafeteria, the Members' Dining Room, the Capitol Carryout, the House side of the Capitol Visitor Center, Committee hearing rooms, and staff offices.

We also continue to see a growing number of offices migrate to the "House Cloud." Currently, 332 offices utilize House Cloud File Services, a secure and cost-effective alternative for storing and managing data. With last year's investment in data storage capability, our goal is to continue moving Member offices and Committees to this solution, which will save them funds currently spent on other options, while increasing the House's data security overall.

Business Continuity and Disaster Recovery Capabilities

Our Business Continuity and Disaster Recovery (BCDR) works in coordination with the Sergeant at Arms, the Office of the Clerk, and other legislative branch agencies to strengthen the House's ability to carry on its constitutional duties if disruptive events occur. Over the last ten years, we have built several fully operational BCDR programs. We



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maintain and routinely exercise mobile and fixed-site capabilities to ensure readiness and an integrated approach to recovery. This past year, the BCDR team improved broadcast, communication, and data network systems, bolstered alternate site readiness, and supported the Alternate Computing Facility, an offsite information technology center that can be utilized in the case of a disruption on Capitol Hill.

Secure and Digital Mail

In August 2011, the CAO awarded Pitney Bowes Government Solutions with a mail services contract that will save the House \$588,000 per month over the old contract, resulting in an annual net savings of over \$7 million. This new contract includes an equipment replacement program and the ability to expand digital mail to all Member offices at no additional cost to those offices. Our Acquisitions Management team also worked with the Library of Congress to renegotiate a cost-sharing Memorandum of Understanding for mail services, resulting in further savings of over \$800,000 annually.

Purchase Card Program

After several years of a pilot program, the Committee on House Administration recently approved the expansion of the Purchase Card Program for all Member and Committee offices. In preparation for the program's rollout, the CAO developed extensive online and one-on-one training, solicited feedback from House staff, revised purchase card policies, and posted necessary information on HouseNet. The Purchase card provides greater convenience for routine and recurring expenses, speeds payment to vendors, and reduces the need for individual reimbursements and voucher submissions for payments.

**CAO Chief Administrative Officer Budget Request — Fiscal Year 2013****Diversity in the Workforce**

A significant part of the August 2011 re-organization was the reestablishment of the Office of Human Resources as a CAO business unit. This new unit includes the Diversity and Organizational Change Management Directorate.

Through developing and implementing programs that promote a diverse, inclusive workplace environment, the establishment of this office reaffirms the CAO's commitment to fostering the positive, inclusive workplace environment sought by our employees. To this end, the office is taking a series of steps that represent best practices. The first is focused on positioning the organization. The next includes designing and implementing a diversity program, followed by sustaining commitment to diversity. The CAO is also continuing to work with the other House Officers and the Inspector General to leverage joint policies and activities to create a more diverse and inclusive workplace.

Financial Audit and Internal Controls Achievements

The CAO has embraced the creation of a management internal controls program to address material weaknesses reported in the FY 2009 and FY 2010 financial statement audits. The investment of time and money for this program is substantial, including a contract with a professional services firm to support our efforts, and the results have proven its worthiness. The internal controls program implemented during FY 2011 helped us successfully remediate two material weaknesses, an achievement seen in the FY 2011 Financial Statement Audit Report. Yearly maintenance and testing of the internal controls program will be required to provide assurance that adequate controls continue to be in place over financial reporting and information technology processes. This program assisted with ensuring the fourteenth



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consecutive clean audit opinion for the House and will strengthen the policy and procedures of CAO operations for future financial audits.

Improved Contracting and FEDLINK

Pursuant to House Report 112-148, the CAO was directed “to consult with all offices of the House in order to procure their required data services either by using the FEDLINK contracts or a unified House contract.” Fulfilling this directive, the CAO first compiled a report of subscription and data service expenses for fiscal year 2010. Then CAO staff met with the Library of Congress and FEDLINK staff regarding using Library of Congress contracts to obtain unified (or enterprise-wide) subscription and data services for House offices.

This was a useful endeavor for comparing costs and evaluating some existing enterprise-wide subscription services. Using this information, the CAO, with CHA approval, cancelled a news service subscription from Factiva, saving the House approximately \$1 million. We also negotiated a more expansive site license package for an enterprise-wide subscription for all *National Journal* publications, saving \$583,000 of Members’ Representational Allowance (MRA) expenses. Finally, under the FEDLINK Blanket Ordering Agreements contract, we negotiated a *CQ - Roll Call* pricing structure that was 25 percent below the FEDLINK pricing.

The CAO will continue to monitor House subscription expenditures to find opportunities where high demand offers the opportunity for unified contracts, and we will continue to explore FEDLINK as a possible resource as we work with vendors to obtain the most advantageous services and pricing for the House.

**CAO Chief Administrative Officer Budget Request — Fiscal Year 2013****The Wounded Warrior Program**

Our budget request includes \$2.175 million to continue the Wounded Warrior Program, which funds fellowships in Member offices throughout the country for veterans wounded in the Iraq and Afghanistan wars. This program helps injured veterans develop valuable skills and experience they can use to transition into full-time civilian employment. Since June 2008, 75 disabled veterans have participated.

Closing Remarks

In this challenging fiscal environment my CAO colleagues and I continue our mission to provide the highest level of service to the House community. I look forward to working with the subcommittee and am happy to answer any questions.

Thank you

OPENING REMARKS FROM THE SERGEANT AT ARMS

Mr. CRENSHAW. Mr. Irving.

Mr. IRVING. Good morning, Mr. Chairman, Ranking Member Honda, and members of the committee. I appreciate the opportunity to appear before you to present the Sergeant at Arms budget request for fiscal year 2013.

Before I begin, I would like to say that, as your new Sergeant at Arms, it is indeed an honor and privilege to have the opportunity to serve this institution. And I look forward to working with you and the members of the committee. I also want to thank the committee for its support for providing the necessary funding for the dedicated men and women who make up the Office of the Sergeant at Arms.

Since I became Sergeant at Arms in January, I have been getting up to speed on our budget request for fiscal year 2013, and I am pleased to report that this request has been crafted in the spirit of zero-based budgeting. A robust and thorough effort has been made to identify cost savings where available, all while maintaining the quality of services this office provides.

Since my arrival, I have been working very closely with the other House officers sitting with me here today at this table in a collaborative effort to find efficiencies and cost-effective ways to further the service that we provide to Congress. Several key efforts under way at this time include the continuation of district office security through our Law Enforcement Coordinator program; security preparations for the 2012 conventions; the upcoming inauguration in January of 2013; coordination of a comprehensive emergency management plan; and preparations for the start of the 113th Congress.

On the technological side, we have been working with the Senate Sergeant at Arms and U.S. Capitol Police on the development of a new bicameral staff identification badge, the implementation of an online badge request form for House offices, the implementation of a desktop notification tool and digital television display for quick posting of emergency messages, and the development and implementation of online training for law enforcement and emergency management coordinators.

In closing, I would like to thank the committee again for the privilege of appearing today. Let me assure you of my commitment to provide the highest-quality support services in the most cost-conscious means possible while maintaining a safe and secure environment for the House of Representatives. My goal and that of every employee within the Office of the Sergeant at Arms is to remain attentive and security-conscious while continuing to maintain the level of fiscal responsibility expected by the House of Representatives.

I will continue to keep the committee informed of my activities, and I would be happy to answer any questions that you may have. Thank you.

Mr. CRENSHAW. Well, thank you very much.

[The prepared statement of Paul Irving follows:]

**Statement of the Honorable Paul D. Irving
Sergeant at Arms, U.S. House of Representatives
Before
The Subcommittee on Legislative Branch Appropriations
For the Office of the Sergeant at Arms
Fiscal Year 2013 Budget Submission**

Good morning Mr. Chairman, Mr. Honda, and members of the Committee. I appreciate the opportunity to appear before you to present the Sergeant at Arms budget request for fiscal year 2013. Before I begin, I would like to say that as your new Sergeant at Arms, it is indeed a privilege to have the opportunity to serve this institution and I look forward to working with you and the members of this committee.

Since I became Sergeant at Arms in January, I have been getting up to speed on our budget request for fiscal year 2013, and am pleased to report that this request has been crafted in the spirit of zero-based budgeting. A robust and thorough effort has been made to identify cost savings where available, all while maintaining the quality of services this office provides.

As Sergeant at Arms, I review and direct security matters relating to the House of Representatives and as a member of the U.S. Capitol Police Board, I take part in establishing policies and guidelines to safeguard the Capitol complex and its occupants. Several key efforts underway at this time include assistance with District Office Security, initial security discussions involving the 2012 conventions, the upcoming Inauguration in January 2013, and coordination on a comprehensive emergency management plan. I will continue to work closely with the U.S. Capitol Police and our emergency planners to facilitate this effort – and all others – as quickly as possible to ensure that all that can be done is being done.

Throughout the past year, in partnership with U.S. Capitol Police, we have continued

our outreach to all Member offices regarding base-line District Office security, providing detailed guidance on best practices, providing information on how to obtain a thorough security review, and coordinating security surveys when requested. We will continue to provide these essential services to offices, always cognizant of the need to provide cost effective recommendations and solutions.

As you know my predecessor developed and implemented the Law Enforcement Coordinator Program (LEC), which is an integral part of every District Office Security plan. I am pleased to report this program is a resounding success with nearly complete participation from the Members. I plan to continue working very closely with this important group of staff. LECs provide a vital link to the local law enforcement community, and enable a liaison and rapport with local and state law enforcement that is extremely helpful. The U.S. Capitol Police Board reached out to local law enforcement, through the International Association of Chiefs of Police, the National Sheriff's Association and others, to advise them of the LEC program. We have received overwhelming support from state, county and municipal law enforcement agencies. The LEC program has been and will continue to be a lasting benefit to this institution.

Allow me to take a moment to mention some of the initiatives we currently are focused on for fiscal year 2013.

- We are making preparations across several divisions for the start of the 113th Congress.
 - > We will undertake the design and procurement of the Member and Spouse Pin, as well as license plates.
 - > We are coordinating with the Senate Sergeant at Arms and U.S. Capitol Police to develop the staff ID badge design.
 - > We will begin the parking permit design, approval and procurement process.
 - > We will design and acquire House gallery passes.

Other initiatives we plan to address include the following:

- We will implement an on-line ID badge request form for House offices.
- We are implementing on-line Security Awareness "101" briefings which will be available to all House staff regarding foreign travel, operation security, and protection of personal identifiable information.
- We will soon implement a desktop "pop-up" notification tool and digital television display to be used for the quick display of emergency messages.
- We are in the process of developing and implementing on-line training for Law Enforcement Coordinators (LEC) and Office Emergency Coordinators (OEC).
- We are in the process of reviewing and updating parts of the House Emergency Operations Plan.

In order to fund these important efforts, the Office of the Sergeant at Arms has requested \$13,828,000 in fiscal year 2013, which includes \$9,220,000 for personnel expenses and \$4,608,000 for non-personnel items.

While we are authorized for 134 FTE for fiscal year 2013, we are requesting funds for 125 positions in the Office of the Sergeant at Arms. The positions are found in the following divisions: the Immediate Office (which includes the division of Police Services/Special Events and Protocol), Chamber Security, Parking Security, House Security, Information Services, and Emergency Management.

Non-personnel expenses for fiscal year 2013 will support travel, telecommunications, printing, other services, supplies and materials, and equipment.

Travel funding is for the advance and support of official special events and funerals, and also includes travel to training seminars and educational conferences. Funding also supports some House emergency evacuation capabilities. Funding requested for fiscal year 2013 is \$42,000 less than fiscal year 2012. This decrease is due to costs being associated with advancing and supporting the 2012 conventions being funded in fiscal year 2012.

Telecommunications funding supports telephone, cell phone, air cards and BlackBerry service for all divisions of the Sergeant at Arms. Funding requested is \$5,000 below that of fiscal year 2012. Funds requested are based on actual fiscal year 2011 costs.

Funding for Printing includes general printing needs as well as the preparation of emergency training materials. Funding requested is \$2,000 below that of fiscal year 2012. Funds requested are based on actual fiscal year 2011 costs.

Funding for Other Services includes training and contractual services. Some highlights covered in this request are:

- Job-specific training for staff of the Sergeant at Arms in all divisions.
- Assistance from subject matter experts on threat mitigation, force protection, counterterrorism, and emergency preparedness, response and recovery.
- Contractual services to assist with the production of identification badges for the 113th Congress.
- Software maintenance in the Office of Emergency Management.

The area of Supplies and Materials provides funding for general office supplies, ID supplies, and miscellaneous supplies which include Parking Security supplies, the life-cycle replacement of Parking Security uniforms, and the lifecycle replacement of blackberries, cellphones, and aircards. This reflects a decrease of \$96,000 in fiscal year 2013. This is primarily based on the cyclical nature of our budget, in which we request new Congress supplies and materials (Member pins, license plates, and parking permits) in even-number fiscal years only.

In the Equipment area, funding supports hardware/software needs throughout all divisions of the Office of the Sergeant at Arms, as well as required maintenance. This is

increase of \$863,000 above that of fiscal year 2012. Some highlights covered in this request include:

- Lifecycle replacement of PCs, laptops and other office equipment.
- Upgrades to the House (emergency) Operations Center, such as the update of video display systems from analog to digital.
- Purchase of equipment to support deployed House operations.
- Annual maintenance and upgrades to several emergency planning software systems to be used in support of continuity of operations.
- Purchase of new equipment for several divisions, including equipment used in the event of an emergency, such as Parking Security radios, digital radios compatible with the new USCP network, an accountability system, portable badging equipment, and first responder access cards (FRAC).

In closing, I would like to thank the Committee again for the privilege of appearing today. Let me assure you of my commitment to provide the highest quality support services for the House of Representatives while maintaining the safest and most secure environment possible. My goal – and that of every employee within the Office of the Sergeant at Arms – is to remain attentive and security-conscious, while continuing to maintain the level of fiscal responsibility expected by the House of Representatives.

I will continue to keep the Committee informed of my activities and will be happy to answer any questions you may have.

Thank you.

ZERO-BASED BUDGETING

Mr. CRENSHAW. And I thank all three of you for all the hard work that you have been doing.

Let me start the questioning with—Mr. Strodel. You mentioned zero-based budgeting, and I know in your written testimony you talked about the projects and programs and activities, the so-called PPAs.

Mr. STRODEL. Right.

Mr. CRENSHAW. As you went through almost line by line, the number of those was reduced from 219 to 127.

I think that is a substantial amount of work and a substantial amount of savings that probably comes from that. Talk about that whole process, zero-based budgeting, and how you went through that process to find that there were a lot of things that you don't need to do anymore.

Mr. STRODEL. Yes, Mr. Chairman, as you indicated, the zero-based budgeting concept is a disciplined budget execution and management approach which starts with the question, why do you do what you say you do? Look at this activity; why do we do it? What does it accomplish? Is there another way it can be accomplished? Does some other element of our organization or the House do something similar?

So it creates a certain mindset of thinking, but you can't stop there. You have to have a process where there are meetings across the organization, because a particular program, project, or activity may cross over into another. So we found many programs, projects, or activities that could be collapsed into one.

And you get there by infusing a common understanding of the mission. We are looking at every item to figure out if there is a better way to do it. So you start not just with managers but with staff, as well, and you include them in these meetings along the way, building up to a decision about the PPAs.

So I think it is not a stand-alone management tool, so to speak. It is a way to govern the organization. And what we did within our organization and also with the other House officers and ultimately other legislative branch entities was to take that concept from the ground up. And we have an individual, Tom Coyne, who is here today, who led that effort for us and has assisted the Committee in that regard.

So it is an ongoing, reiterative process. And we have seen the benefits from it.

Mr. CRENSHAW. I know one of your goals has been to try to find savings all across the House. Is that kind of process you went through, you do that in conjunction with the other officers? And maybe can you highlight any of the overall savings you found?

Mr. STRODEL. Yes. In particular, I mentioned subscriptions in the opening statement. One example, which wasn't just specific to CAO but the House community, was in the subscriptions that offices use, whether it is Roll Call-CQ, National Journal, or any other form of research or informational tools. Two things we did: One, we renegotiated with National Journal for an enterprise-wide, or House-wide contract, that is paid by the CAO and supports all House offices. Member offices can utilize the service, as opposed to each Member

office going it alone and trying to get the best deal they can. We had an economy of scale, basically, from looking at these subscriptions.

In particular, working with Karen Haas' office, they had a tool called ProQuest, which provides a similar information database going back, I think, to 1789 with legislative documents. And Karen might want to add more.

But it was a concept of asking what do you have? Here is what we are doing. How can we do this more effectively? How is ours different? Where are there overlaps?

And toward the end of the year, working with the Committee on House Administration, we had a House subscription fair, which I believe was the first time, where representatives from National Journal; CQ; Bloomberg News; ProQuest; and CRS were there. And, again, it was a collective effort: let's put this out there and see how we can use these resources more effectively. So that, to me, was a good example of bringing something together House-wide.

Mr. CRENSHAW. Great. Thank you very much.

Mr. Honda.

DEFENSE OF MARRIAGE ACT

Mr. HONDA. Thank you.

Last year, we spent a lot of time at the hearing discussing the House decision to defend the Defense of Marriage Act and the costs of that litigation. The General Counsel signed an original contract that capped the outside counsel at \$500,000. Since then, the maximum cap has grown to \$1.5 million.

Last year, neither the General Counsel nor the Chief Administrative Officer could tell the subcommittee where the funds to pay for the contract would come from. Since then, I understand that \$742,000 has been transferred to the Office of General Counsel for the purpose of paying this outside law firm to defend DOMA's constitutionality.

Is that a correct statement? And has \$742,000 been transferred to General Counsel?

Mr. Strodel.

Mr. STRODEL. Yes. That is a correct statement.

Mr. HONDA. Okay. Then there have been rumors and a reported article, which has since been corrected, that money has been given to the House for this contract from the Department of Justice.

Mr. Strodel, for the record, where was the \$742,000 transferred from? What offices? How much from each office? And are all of those offices from within the House of Representatives?

Mr. STRODEL. Yes, sir. The reprogramming was from the Salaries, Officers, and Employees Appropriation.

Mr. HONDA. Of which area?

Mr. STRODEL. That is the overall appropriation for salaries, officers, and employees. And, as you indicated, it was a total of \$742,000.

Mr. HONDA. Then, for Mr. Kircher, has your office received any funds from the Department of Justice in the past year through transfer or any agreement to pay for your DOMA defense or for any other purposes?

Mr. KIRCHER. Not that I am aware of. The money I have received is what Dan just referred to, the \$742,000.

Mr. HONDA. Okay.

There were several DOMA-related cases challenging the constitutionality. And I just was wondering, who knows how many there will be until this issue is repealed? Do you have any idea?

Mr. KIRCHER. How many cases will be filed?

Mr. HONDA. Or that is in the coffers right now.

Mr. KIRCHER. Well, to date, we have 12 cases. One of those cases is complete. Two of those cases we have not yet intervened in. So that makes a total of nine active cases at the moment that we are involved in.

Mr. HONDA. So, currently, we have nine that we are litigating. And then how many did you say will be litigated?

Mr. KIRCHER. Well, there are two more that have been filed in which the House has not yet intervened.

Mr. HONDA. Okay. And then—

Mr. KIRCHER. Those cases have been filed within the past 3 to 4 months.

Mr. HONDA. So how do you decide which cases you would litigate? Because it would seem to me that you would have other issues other than this coming to your office. How do you determine what comes as a priority in order for you to commit time, staff and resources?

Mr. KIRCHER. Well, everything we do is a priority. So everything gets staffed, and everything gets taken care of.

Obviously, with the DOMA, we have outside counsel to utilize to the extent I deem that appropriate. And over the past 6 months, in an effort to deal with cost issues, some of which were raised at last year's hearing, we brought more of the DOMA work back into my office in order to reduce the amount that we expend on outside counsel.

Mr. HONDA. Of the \$1.5 million that has been approved, how much of that has been spent for litigation?

Mr. KIRCHER. Well, how much has—I could give you the amount that has been billed to date and I can give you the amount that we have paid to date, okay? So I can give you both of those numbers.

Mr. HONDA. When I take those, then I will know how much is left over.

But you will continue on this path when it has been determined that the DOMA was unconstitutional. And in that light, you make those priorities, rather than the other things. I think the kind of resources that we have in the House and Department of Justice could be used for perhaps more worthy purposes, but I suppose "worthy" is in the eyes of the beholder. We are struggling to pay for security measures and maintain staff after our office budgets have been slashed, but somehow we seem to find funds to defend unconstitutional laws that separate all of us.

Mr. LATOURETTE. Will the gentleman yield for just a minute?

Mr. HONDA. Sure.

DOMA UNCONSTITUTIONAL?

Mr. LATOURETTE. Where was it ruled unconstitutional? Where has DOMA been thrown out as unconstitutional?

Mr. HONDA. Well, it has been determined.

Mr. LATOURETTE. By who?

Mr. HONDA. By the Department of Justice.

Mr. LATOURETTE. By the Department of Justice? Well, that is why we have courts.

Mr. HONDA. Right. And so, how many more are we going to continue?

Mr. LATOURETTE. Well, when is the Department of Justice going to do their job?

Mr. HONDA. Well, they are doing their job.

Mr. LATOURETTE. No, they are not. You can't pick which laws you want to enforce and which laws you don't feel like enforcing.

Mr. HONDA. They are required to make a decision.

Mr. LATOURETTE. The Department of Justice is required to defend the laws of the United States.

Mr. HONDA. It is like each one of our offices, we are required to make decisions. Whether it is right or wrong, somewhere along the line it will be determined.

Mr. LATOURETTE. Well, I——

Mr. HONDA. It seems that—reclaiming my time——

Mr. LATOURETTE. Sure.

Mr. HONDA [continuing]. It seems that we have enough out there to move forward on this issue. And it seems on other issues, such as bringing some justice or some resources to the family of Trayvon Martin in Florida, we continue to defend some laws in the civil rights area and other things. There are a lot of other things that we can do.

And it seems like we already have done a lot of work DOMA. And we have nine cases already in the coffers. We should be able to just continue those cases without getting more, so that we don't just draw down our resources.

I yield back, Mr. Chairman. Thank you. Unless my colleague——

Mr. PRICE. I will take my turn in the questioning.

Mr. HONDA. I appreciate it, Mr. LaTourette.

Mr. LATOURETTE. Well, I appreciate it, as well.

Mr. CRENSHAW. I will call on Mr. LaTourette for any questions he has, or comments.

FURTHER DISCUSSION ON DOMA

Mr. LATOURETTE. Yeah, you know, I had some tough questions for all three officers of the House. I was going to grill you like an onion. But I really can't let this thing pass.

I mean, the Department of Justice decided it was okay to sell firearms to drug cartels down in Mexico. So I don't think that that has been definitively determined either.

You know, I was really hoping this thing would go away during last year's markup of this issue. Because, I mean, I want the record to be real clear, CREW, the Citizens for Responsibility and Ethics in Government, filed a complaint against our Speaker, first saying he violated a statute in defending or hiring counsel to defend the

constitutionality of this statute. Then the chairman asked for a report from GAO; they said he didn't do anything wrong. And then in a strange thing that I had never seen from Ms. Sloan at CREW, she sends a letter on July the 12th saying, "Whoops, I was wrong. I guess there is no violation of the statute."

Now, apparently, Mr. Honda, you are trying to come at it from a different tack. And I have to tell you that the brief that was just filed in this last instance, for me, says it all. And that is, the executive branch actively is trying to invalidate a duly enacted Federal statute which it does not like. So they haven't ruled that—they don't like it. And they don't have to like it.

Another branch of the Federal Government, which is the House of Representatives, one not normally charged with doing the Department's job for it, is doing precisely that, defending the statute in the courts. Because the executive branch defendants in this and other DOMA cases have aligned themselves with the plaintiffs, this interbranch conflict is costing the American taxpayers money on both sides of every case.

So if you want to be mad at somebody, you should be mad at the Department of Justice, because we are paying the former guy from King & Spalding—and King & Spalding chickened out and decided they were not going to defend the case, yielding to public pressure, which is a huge violation of ethics if you are a lawyer, in my opinion. But we are not only paying that, but we are also paying the Justice Department to oppose a statute that is a valid statute signed into law by President Bill Clinton. This isn't something you can blame on President Bush. Bill Clinton signed DOMA.

It is the law of the land. And, until a court reaches the conclusion that it is unconstitutional or unworkable or anything else,—what kind of country would this be if the Department of Justice just decided to pick and choose which statutes they liked and which statutes they didn't like? That is nuts.

I would be happy to yield to you. Tell me why it is not nuts.

Mr. HONDA. Well, I don't disagree with you that each department has their constitutional responsibility.

Mr. LATOURETTE. Right.

Mr. HONDA. Are you telling me that the Department of Justice is not doing their job because they made a judgment and they have all these other court cases to move forward? I agree that we should take these things to the courts once someone makes a decision. The Department of Justice made a decision. And—

Mr. LATOURETTE. Reclaiming my time for just a second, and then I would be happy to yield to you.

What if the Department of Justice in another administration decided they didn't like the Civil Rights Act of 1964? Do they have the ability to say, "We don't like this thing, and so, House of Representatives, it is upon you to go out and defend the Civil Rights Act of 1964"? That is crazy. That is crazy.

Mr. HONDA. May I?

Mr. LATOURETTE. Yeah, sure, I would be happy to yield to you.

Mr. HONDA. On those, did the courts judge on that?

Mr. LATOURETTE. What?

Mr. HONDA. Did the courts judge on those—

Mr. LATOURETTE. I am saying if there is a fresh challenge.

Mr. HONDA. Did the courts judge on—

Mr. LATOURETTE. Oh, of course the courts have judged on it. The courts have not judged on this.

Mr. HONDA. It went through all the pieces. Now, if you want to ask me the same question again, that if this country passes a law or the administration does something, I can point to 1942, when there was an Executive order—

Mr. LATOURETTE. Yeah.

Mr. HONDA [continuing]. And it took 60 years for this Congress to understand that it did wrong.

Mr. LATOURETTE. Sure. Yeah.

Mr. HONDA. So you can't tell me that people don't do their jobs or they don't make mistakes. One of our jobs in Congress is to bring these things out. I have brought it up. We didn't have answers until we brought the issues up. And now that we have brought it up, we have answers that you have in your hand.

Mr. PRICE. Would the gentleman yield?

Mr. LATOURETTE. Well, I will be happy to yield to you in just a second. I know you are going to get 5 minutes, and you will yield to me. And when I am done, I will be happy to do that.

But, you know, the fact of the matter is, it is a law that has been signed by the President of the United States, a Democratic President of the United States. And it is my position—and I think I am right on this—that the Department of Justice can't cherry-pick what they choose to defend or not defend.

And the reason it is not only costing \$742,000, it is costing more, is because the Department of Justice is in bed with the plaintiffs.

I yield to my friend from North Carolina.

Mr. HONDA. Well, just—

Mr. LATOURETTE. I am not yielding to you. I am yielding to North Carolina. Go ahead.

Mr. HONDA. I was just going to talk about cherry-picking. That is what they are supposed to do.

Mr. LATOURETTE. No, it is not. That is baloney.

Mr. HONDA. They are supposed to pick out the bad stuff.

Mr. LATOURETTE. What if they don't like laws that you like? That isn't what the law is.

Go ahead, Mr. Price. I am happy to yield to you.

Mr. PRICE. If the gentleman will yield.

Mr. LATOURETTE. Sure, I am happy to.

Mr. PRICE. The question you raised about constitutionality is precisely what the courts are dealing with. And, as a matter of fact, a U.S. district court on February 22nd said, yes, this law is unconstitutional. That is what is being litigated.

Mr. LATOURETTE. That is correct.

Mr. PRICE. Secondly, the question of what you describe as cherry-picking, I have a dozen cases here where the Department of Justice made precisely the kind of decision you are describing. You can look at the Bush administration. In 2004, *ACLU v. Mineta*, the Department declined to defend against a First Amendment challenge, a statute conditioning Federal funding of transportation on agreement by a mass transit agency not to do a certain kind of advertising.

Go back to when John Roberts, none other than John Roberts, was Acting Solicitor General during the first Bush administration. He argued for the unconstitutionality of a Federal statute providing for minority preferences in licensing.

So, yes, there are many, many cases, in Democratic and Republican administrations, where the Department of Justice has made precisely this kind of decision.

Mr. LATOURETTE. And I appreciate the gentleman's observation. And reclaiming my time, I would just say: But in those instances where there was declination by the Department of Justice to defend the laws of the United States, the House of Representatives should be within its rights to defend a statute that it passed and was signed into law. That is what is at issue here.

What is at issue here and what you guys are complaining about is spending \$742,000 to an outside law firm to defend a law that we passed and was signed by President Clinton. The Department of Justice, they can decline all they want, but that shouldn't stop a co-equal branch of government to defend its work.

And I yield back. And I am sorry I didn't get to ask you folks any questions.

Mr. CRENSHAW. We will have another round.

But I think the conversation has made it clear that there is a law that Congress passed that is being challenged, and more often than not the Department of Justice defends those kind of lawsuits. As Mr. Price pointed out, there are times when they choose not to. And when they don't, certainly within the right of the House of Representatives, and that is what we are doing.

So I don't think it is fair to complain that the money we are spending could be spent elsewhere because somebody is going to have to defend these lawsuits. Congress passed it, the President signed it, that is where we are.

I am going to call on Mr. Price for his 5 minutes worth of questions.

DOMA CONTINUED

Mr. PRICE. Well, thank you.

I do think this exchange clarifies a couple of things: first of all, that not every Justice Department defends every law passed by this body. There is what Mr. LaTourette calls cherry-picking that goes on.

And then it is an open question, whether this institution rises to the defense of that statute. You ask, are we within our rights? Yes, of course, we are within our rights. That doesn't mean it is a wise or an appropriate decision to divert hundreds of thousands of dollars from other purposes in the legislative branch appropriations bill for this legal defense. That is a question of prudential judgment, not whether we are within our rights or not. We are setting priorities on this committee and making policy judgments. That is precisely what this is about.

Mr. LATOURETTE. Will the gentleman yield?

Mr. PRICE. Yes.

Mr. LATOURETTE. Well, if the gentleman will concede that we are within our rights to hire outside counsel but the gentleman and his

colleagues disagree that we should be spending money on it, I am fine with that. I agree. That is where I am.

Mr. PRICE. Well, the Congress did not do what you are asking us to do here when the Justice Department of the Bush administration made the decision it did in 2004 and when John Roberts made the call he did in 1990. So it is a matter of judgment. And this is a matter, in my opinion, of very questionable judgment.

Let me pursue what the implications are for the 2013 budget year. We have a contract now that allows the General Counsel to pay up to \$1.5 million to Bancroft, LLC, for this defense. So let me ask, where will this other \$758,000 come from if you decide to pay the maximum allowed under the contract? And, why is it not in the 2013 budget request? Where is this money going to come from? And, is there any chance this contract could increase beyond the \$1.5 million?

I ask that question because there is another case, *McLaughlin v. Panetta*, that asserts that not only is Section 3 of DOMA unconstitutional but that Title 38 of the U.S. Code dealing with employment rights for U.S. servicemembers is unconstitutional. The Attorney General has—I am sure you are aware—sent a letter to Congress saying he has determined that Title 38, as it pertains to same-sex couples married under State law, violates the equal-protection component of the Fifth Amendment, and he said he has instructed his attorneys to no longer defend this law.

Mr. Kircher, are there plans to litigate this case or any others that deal with Title 38? In other words, how far is this going to go in your estimation? And where is the money going to come from?

Mr. KIRCHER. With respect to your first question, there are actually two cases that challenge Title 38. There is the *McLaughlin* case that you mentioned, and there is another case called *Cooper Harris* that was filed recently in the Central District of California. So, at the moment, there are two cases.

And this is one I was referring to when I told Mr. Honda that there were two cases that the House had not yet intervened in. Those are the two cases I am talking about, the ones that challenge Title 38, in addition to Section 3 of DOMA. I expect that we will intervene in those cases in the near future.

Mr. PRICE. What are you authorized to intervene in under the terms of this agreement and this transfer of funds? Is the amount likely to go over \$1.5 million? And, why is this not in your 2013 budget?

Mr. KIRCHER. Well, there are several questions there mingled together. Let me see if—

Mr. PRICE. They are interrelated, I think.

Mr. KIRCHER. Let me see if I can sort them out.

The contract has nothing do with what we are authorized to intervene in. That direction comes from the leadership. So when a case is filed, I consult with my clients about whether to intervene or not, and we make a decision.

Mr. PRICE. Well, excuse me, but is it a matter of simply what the leadership says they want? Are there any limits on the range of cases you could intervene in without further explicit authority from this committee or this body?

Mr. KIRCHER. I don't think this committee has any authority over the leadership in terms of which cases the General Counsel—

Mr. PRICE. This is an open-ended grant of funding for—

Mr. KIRCHER. I didn't say it was an open-ended grant of funding. What I said was that the decisions on which cases the House will intervene in is a decision made by the leadership. And then they direct me, and then I act.

Mr. PRICE. All right. And you have a contract now for \$1.5 million. Do you anticipate hitting the upper limit of that contract?

Mr. KIRCHER. Let me correct one thing. The cap, at the moment, is only \$750,000. If you actually read the amendment to the contract, the cap was raised to \$750,000 through the end of fiscal year 2011. And the contract authorized the General Counsel, in consultation and with the approval of the Committee on House Administration, to raise that cap to \$1.5 million. That has not been done yet.

So, at the moment, the cap is only \$750,000. I do anticipate that cap will go up, yes.

Mr. PRICE. And, you anticipate that you will spend that money?

Mr. KIRCHER. Well, it is hard to know how much we will ultimately spend, because it is hard to know how this litigation ultimately plays out. Obviously, the name of the game here is to get some case before the Supreme Court and get a resolution of this issue. When that happens, we will be done, we won't spend any more money.

I cannot predict at this point how soon that will happen. You know, there are a lot of balls in the air on this one, not only the DOMA cases but there is the Prop 8 case out of California that is related to this issue that was decided by the Ninth Circuit recently. So it is very difficult to predict how and when a case will actually make it to the Supreme Court. And, obviously, the Supreme Court doesn't have to take the first case if it doesn't want to.

At this point, we have three cases that are in the courts of appeals. One of those is to be argued in the First Circuit next week. Best possible circumstance, that case could, you know, conceivably be decided promptly, petition for cert filed with the Supreme Court, and maybe it gets taken during the next term. That is the best possible circumstance. That obviously has monetary implications for the House if that happens. If it doesn't take it or if that case doesn't get to the Supreme Court that quickly, then that has other monetary implications for the House.

But it is very difficult for me to answer a question about how much, because I just don't know how all of this is ultimately going to play out.

Mr. PRICE. Well, the contract is with Bancroft, right?

Mr. KIRCHER. Yes.

Mr. PRICE. You can't go beyond that?

Mr. KIRCHER. No.

Mr. PRICE. My understanding was that the contract was only for the purpose of litigating the constitutionality of Section 3, but you seem to be saying it is more open-ended than that.

Mr. KIRCHER. Well, if you are talking about the Title 38 provisions in the McLaughlin case and the Cooper Harris case, there is no material difference between the statutory language in Title 38

and the statutory language in Section 3. It is two sides of the same coin. The arguments will be the same. The legislative history of the two statutes is—

Mr. PRICE. The question is not the content of the arguments; the question is what you are authorized to do under this contract and what range of cases you are authorized to get yourself involved in.

Mr. KIRCHER. I think the contract certainly covers the DOMA Section 3 cases and the Title 38 cases. That is obviously all we are facing at this point.

Mr. PRICE. Thank you, Mr. Chairman.

Mr. CRENSHAW. Thank you, Mr. Price.

Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman.

And in reference to our Justice Department, after the prosecution of Ted Stevens, I don't have a lot of confidence in them.

But I will yield to my favorite counsel, Mr. LaTourette.

CREW COMPLAINT/WITHDRAWAL/GAO RESPONSE/OTHER INFORMATION

Mr. LATOURETTE. Thank you very much, Mr. Calvert, for the courtesy.

And Mr. Chairman, I just want to make sure that the record is crystal clear. Because when we are talking about leadership, I don't want anybody to leave the room with the impression that it is John Boehner making the decision as to what cases the House Counsel gets involved in or not. So I would like to introduce for the purposes of the record all the documents that I talked about before, the CREW complaints and the withdrawal, and the GAO report, which you requested.

[The information follows:]

CREW | citizens for responsibility
and ethics in washington

July 12, 2011

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, DC 20515

Theresa M. Grafenstine
Inspector General
United States House of Representatives
386 Ford House Office Building
Washington, DC 20515

BY FAX

Re: Withdrawal of Complaint against Speaker John Boehner (R-OH)

Dear Mr. Ashmawy and Ms. Grafenstine:

On June 14, 2011, Citizens for Responsibility and Ethics in Washington (“CREW”) requested the Office of Congressional Ethics (“OCE”) and the Office of the Inspector General (“OIG”) investigate Speaker John Boehner (R-OH) for violating the Antideficiency Act and House rules by directing House General Counsel Kerry Kircher to enter into a \$500,000 contract with an outside law firm to represent the House in litigation surrounding the constitutionality of the Defense of Marriage Act. In light of a letter issued July 6, 2011 by the Government Accountability Office (“GAO”) addressing some of the issues raised by CREW’s requests for investigation, CREW respectfully withdraws those requests.¹

A week after CREW filed its complaint, Rep. Ander Crenshaw (R-FL), chairman of the House Appropriations Subcommittee on the Legislative Branch, asked GAO whether Mr. Kircher violated the Antideficiency Act when he signed the contract and whether the House could transfer other funds to the Office of the General Counsel to avoid any potential Antideficiency Act violation?

Based on information obtained from the House Chief Administrative Officer, GAO concluded that on the day Mr. Kircher signed the contract, OGC still had enough money from its 2011 appropriation to pay the \$500,000, meaning there had been no Antideficiency Act violation at that time. GAO also concluded that federal law authorizes transfers between certain House

¹ See B-322147, Letter from Lynn H. Gibson, General Counsel, GAO, to Rep. Ander Crenshaw, Chairman, House Appropriations Subcommittee on the Legislative Branch, July 6, 2011 (attached).

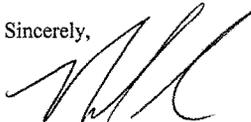
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Ms. Theresa M. Grafenstine
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appropriations accounts, allowing money to be added to OGC's account at a later date to avoid antideficiency violations.

GAO was not asked and did not address other issues raised in CREW's complaint such as whether OGC would still have sufficient funds in its appropriation to pay any legal bills that became due later in the year, or whether having less than the amount obligated under the contract would violate the Antideficiency Act. Neither did GAO address whether entering into a contract incurring obligations beyond fiscal year 2011 violated the Act.

CREW continues to have questions about whether the half million dollar contract OGC entered into to defend DOMA violated the Antideficiency Act. Nevertheless, given that GAO -- the nonpartisan agency specifically charged with investigating government spending -- has conducted its own inquiry into this matter and found no violation, CREW does not believe further investigation is warranted and respectfully withdraws its complaint.

Sincerely,



Melanie Sloan
Executive Director
Citizens for Responsibility and
Ethics in Washington

Encl.

CREW | citizens for responsibility and ethics in washington

June 14, 2011

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, DC 20515

Re: Request for Investigation into Conduct of Speaker John Boehner (R-OH)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Congressional Ethics investigate Speaker John Boehner (R-OH) for violating the Antideficiency Act and House rules.

Background

On February 23, 2011, Attorney General Eric Holder sent a letter to Speaker Boehner advising him that President Obama had determined that Section 3 of the Defense of Marriage Act (“DOMA”), 1 U.S.C. § 7, violates the equal protection component of the Fifth Amendment to the U.S. Constitution.¹ As a result, the Department of Justice (“DOJ”) would no longer defend Section 3’s constitutionality in pending litigation.² At the time, DOJ was defending the statute’s constitutionality in at least 10 cases.³

In response, Speaker Boehner announced he would convene a meeting of the Bipartisan Legal Advisory Group (“BLAG”) to authorize the House of Representatives to take action to defend DOMA.⁴ BLAG is a five-member group of House leaders through which the House

¹ See Letter from Attorney General Holder to Speaker Boehner, February 23, 2011 (attached as Exhibit A).

² *Id.* By statute, the Attorney General must report to Congress when he or she determines to refrain from defending the constitutionality of a federal statute. 28 U.S.C. § 530D(a)(1)(B)(ii).

³ See Letter from Assistant Attorney General Ronald Weich to House General Counsel Kerry Kircher, February 25, 2011 (attached as Exhibit B).

⁴ See Press Release, Speaker John Boehner, Statement by House Speaker John Boehner (R-OH) regarding the Defense of Marriage Act, March 4, 2011 (attached as Exhibit C).

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articulates its institutional position in litigation.⁵ On March 9, 2011, BLAG voted to authorize Speaker Boehner to direct the Office of General Counsel to take appropriate steps to defend DOMA, including intervening in pending cases or submitting briefs *amicus curiae*, retaining outside counsel to conduct the litigation on behalf of BLAG, and coordinating the litigation with outside counsel.⁶ That same day, Speaker Boehner directed the Office of General Counsel to initiate a legal defense of DOMA.⁷

The Rules of the House of Representatives establish the Office of General Counsel “for the purpose of providing legal assistance and representation to the House.”⁸ The rules specify the Office of General Counsel “shall function pursuant to the direction of the Speaker,” and that “[t]he Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.”⁹ The Office of General Counsel is funded through annual Legislative Branch Appropriations Acts. For fiscal year 2011, Congress appropriated \$1,415,000 for the “salaries and expenses” of the Office of General Counsel.¹⁰

⁵ See Unopposed Motion of the Bipartisan Legal Advisory Group of the U.S. House of Representatives to Intervene for a Limited Purpose at 1, n.1, *Windsor v. U.S.*, No. 10-cv-8435 (S.D.N.Y.) (“Windsor Motion”) (attached as Exhibit D). BLAG currently consists of Speaker Boehner, Majority Leader Eric Cantor (R-VA), Majority Whip Kevin McCarthy (R-CA), Minority Leader Nancy Pelosi (D-CA), and Minority Whip Steny Hoyer (D-MD). *Id.*

⁶ See Majority Leader Eric Cantor, Authority to Intervene or File Amicus, May 9, 2011 (attached as Exhibit E); Windsor Motion at 1, n.1. Minority Leader Pelosi and Minority Whip Hoyer voted against granting Speaker Boehner this authority. See Press Release, Minority Leader Nancy Pelosi, Pelosi Statement After Bipartisan Legal Advisory Group Vote on DOMA, March 9, 2011 (attached as Exhibit F).

⁷ See Press Release, House Speaker John Boehner, House Will Ensure DOMA Constitutionality is Determined by Court, March 9, 2011 (attached as Exhibit G).

⁸ Rule II, cl. 8, Rules of the House of Representatives, 112th Cong. (2011). The establishment of the Office of General Counsel under this rule is referenced in 2 U.S.C. § 130f(c)(1).

⁹ *Id.*

¹⁰ The appropriation for fiscal year 2011 was made through the Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10 (2011). Section 1101(a)(5) established the level of funding for the Office of General Counsel as the same level as in the Legislative Branch Appropriations Act, 2010, Pub. L. No. 111-68, Division A (2009).

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Questions about the source of funding for the litigation were raised even before BLAG voted to authorize hiring outside counsel to conduct a legal defense of DOMA's constitutionality. During the March 9 BLAG meeting, Minority Leader Nancy Pelosi (D-CA) and Minority Whip Steny Hoyer (D-MD) asked House General Counsel Kerry Kircher about the costs of the litigation.¹¹ On March 11, 2011, Minority Leader Pelosi sent Speaker Boehner a letter noting Mr. Kircher had acknowledged his office "lacked the personnel and the budget to absorb those substantial litigation duties."¹²

Despite admitted insufficient funds, at Speaker Bohener's directive, on April 14th, Mr. Kircher signed a contract retaining the law firm King & Spalding to represent BLAG as a party or an amicus in civil actions litigating the constitutionality of Section 3 of DOMA.¹³ Under the contract, the general counsel agreed to pay King & Spalding "a sum not to exceed to \$500,000."¹⁴ Anticipating the litigation might cost more than \$500,000, the contract included a provision allowing the cap to be raised by written agreement of the parties.¹⁵ King & Spalding's fees were to be based on a blended rate of \$520 per hour for attorney time and at 75 percent of the firm's usual and customary rates for non-attorney time.¹⁶ Payments could be made on a partial basis from time to time in the amounts approved by the general counsel,¹⁷ and the firm agreed to submit bills monthly.¹⁸ The contract was to terminate when the litigation was complete or on January 3, 2013.¹⁹ In addition, the general counsel had the right to terminate the agreement at

¹¹ See Chris Johnson, Boehner Panel Directs Counsel To Defend DOMA, *Washington Blade*, March 9, 2009 (attached as Exhibit H); Letter from Minority Leader Pelosi to Speaker Boehner, March 11, 2011 (attached as Exhibit I).

¹² *Id.*

¹³ See Contract for Legal Services between the General Counsel and King & Spalding, signed April 14, 2011 (attached as Exhibit J).

¹⁴ *Id.* ¶ 2.

¹⁵ *Id.*

¹⁶ *Id.* ¶ 3.

¹⁷ *Id.* ¶ 2.

¹⁸ *Id.* ¶ 3.

¹⁹ *Id.* ¶ 8.

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any time for any reason or no reason, in which case payment would be based on work performed.²⁰

Speaker Boehner responded to Minority Leader Pelosi on April 18, 2011, stating it was his intent that funds DOJ would have spent on the litigation “be diverted to the House for reimbursement of any costs incurred by and associated with the House, and not DOJ, defending DOMA,” and adding he would welcome Minority Leader Pelosi joining him in support of “redirecting those resources.”²¹ Speaker Boehner further asserted that in the interim, he had “directed House Counsel and House Administration Committee to assure that sufficient resources and associated expertise, including outside counsel, are available for appropriately defending the federal statute.”²² In response, Minority Leader Pelosi again raised questions about funding the litigation.²³

Just days after the contract with King & Spalding was made public, the firm withdrew from the representation.²⁴ The lawyer primarily responsible for the litigation, former Solicitor General Paul Clement, immediately resigned from King & Spalding and joined Bancroft PLLC (“Bancroft”).²⁵ On April 25, 2011, Mr. Kircher signed a new contract to defend DOMA’s constitutionality with Bancroft, with identical terms to those in the King & Spalding contract.²⁶

Mr. Kircher and interim Chief Administrative Officer Daniel Strodel testified about the contract and the litigation to defend DOMA’s constitutionality at a May 13, 2011 hearing of the

²⁰ *Id.* ¶ 1.

²¹ See Letter from Speaker Boehner to Minority Leader Pelosi, April 18, 2011 (attached as Exhibit K).

²² *Id.*

²³ See Letter from Minority Leader Pelosi to Speaker Boehner, April 18, 2011 (attached as Exhibit L); Letter from Minority Leader Pelosi to Speaker Boehner, April 20, 2011 (attached as Exhibit M).

²⁴ See Josh Gerstein, DOMA Defense in Turmoil, *Politico*, April 25, 2011 (attached as Exhibit N).

²⁵ *Id.*

²⁶ See Contract for Legal Services between the General Counsel and Bancroft PLLC, signed April 25, 2011 (attached as Exhibit O).

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House Appropriations Legislative Branch Subcommittee.²⁷ Mr. Kircher explained he had been “directed by the leadership of the House” to sign the contract, and was “advised” by the House leadership that the funds for the litigation were “not coming out of the budget of the Office of the General Counsel.”²⁸ Instead, he was told the funds were being “reprogrammed from other sources in the House,” and that Speaker Boehner’s office and members of the House Appropriations Committee were involved in the reprogramming process.²⁹ Mr. Kircher added he did not know where the funds would come from or if any reprogramming had already occurred.³⁰ Mr. Strodel testified his office had not received any request for reprogramming.³¹

As of June 13, 2011, Bancroft had intervened on behalf of BLAG in at least six cases.³²

Violations

The Antideficiency Act

The Antideficiency Act is part of a statutory scheme that limits the ability of federal agencies to spend and obligate money. Specifically, the act provides that an “officer or employee of the United States Government” may not: (1) “make or authorize an expenditure or obligation exceeding the amount available in an appropriation or fund for the expenditure or obligation”; or (2) “involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.”³³ The purpose of the act is to prevent government officials from spending money or incurring obligations at a rate which would exhaust appropriations before the end of the fiscal year and thus would require additional

²⁷ A transcript of the hearing is attached as Exhibit P.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² See *Commonwealth of Massachusetts v. U.S. Dep’t of Health & Human Servs.*, No. 10-2204 (1st Cir.); *Gill v. OPM*, Nos. 10-2207 & 10-2214 (1st Cir.); *Dragovich, et al. v. Dep’t of the Treasury, et al.*, No. 10-1564 (N.D. Cal.); *Golinski v. OPM*, No. 10-00257 (N.D. Cal.); *Pedersen, et al. v. OPM, et al.*, No. 10-cv-1750 (D. Conn.); *Windsor v. U.S.*, No. 10-cv-8435 (S.D.N.Y.).

³³ 31 U.S.C. § 1341(a)(1)(A-B). See also 2 U.S. Gov’t Accountability Office, *Principles of Federal Appropriations Law*, 6-36 (3d ed. 2010).

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appropriations.³⁴ The statute applies to all government officers and employees, including those in the legislative branch.³⁵

The Antideficiency Act can be violated in several ways. Obligating the government through a contract to make a payment for more than the amount remaining in an appropriation violates the statute,³⁶ as does making a payment when the appropriation is exhausted.³⁷ The act also can be violated by involving the government in a contract for the payment of money before appropriations have been made for that purpose.³⁸ In other words, "government officials may not make payments or commit the United States to make payments at some future time unless there is enough money in the 'bank' to cover the cost in full. The 'bank,' of course, is the available appropriation."³⁹

A government officer or employee who violates these provisions "shall be subject to" administrative discipline, including suspension from duty without pay or removal from office.⁴⁰ An officer or employee who "knowingly and willfully" violates these provisions "shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both."⁴¹ In addition, when an Antideficiency Act violation occurs, the head of the agency must immediately report the violation, all relevant facts, and a statement of actions taken to the President and Congress, and forward a copy of the report to the Comptroller General.⁴²

Speaker Boehner violated the act by directing the general counsel to enter into a contract obligating his office to pay up to \$500,000 for Bancroft's litigation services defending DOMA's constitutionality. As with many contracts, the precise amount of the obligation incurred could not be known at the time the contract was entered. In these circumstances, an agency must use

³⁴ 2 *Principles of Federal Appropriations Law*, 6-34-6-35.

³⁵ *Id.*, 6-38.

³⁶ *Id.*, 6-46-6-48.

³⁷ *Id.*, 6-41.

³⁸ *Id.*, 6-36, 6-51-6-52.

³⁹ *Id.*, 6-37.

⁴⁰ 31 U.S.C. § 1349(a).

⁴¹ 31 U.S.C. § 1350.

⁴² 31 U.S.C. § 1351.

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its “best estimate” of the amount in establishing the amount of the liability and “charge” that amount to the year in which the contractual obligation was created.⁴³ For example, the Government Accountability Office determined the proper procedure for determining DOJ’s obligation for court-appointed attorneys - an amount that would vary from case to case - was to estimate the obligation based on past average costs per case and statutory limits on compensation for court-appointed attorneys and charge that amount to the fiscal year during which the attorneys were appointed.⁴⁴

Here, the best estimate of the amount the general counsel will be obligated to pay Bancroft is \$500,000, the amount included in the contract. Bancroft has already intervened in six cases, all at different stages of litigation. Some are pending in district courts and may require extensive litigation, including discovery, motions briefing, trial, and/or appeals. Others are on appeal and largely will require drafting legal briefs. Considering the controversy surrounding DOMA, one or more of the cases may end up before the Supreme Court.⁴⁵ At Bancroft’s rate of \$520 per hour for attorney time, the fees will reach \$500,000 in approximately 160 attorney hours per case Bancroft already is litigating, fewer hours when non-attorney time and other expenses are included.

Congress appropriated \$1,415,000 for the Office of General Counsel for fiscal year 2011.⁴⁶ The \$500,000 contract represents more than 35 percent of the office’s total appropriation. With more than two-thirds of the fiscal year having passed, the office will not have sufficient funds to pay for both its remaining salaries and expenses and the DOMA defense as Mr. Kircher acknowledged in his testimony. By authorizing an obligation for more than the amount available in the appropriation for the Office of General Counsel, Speaker Boehner violated the Antideficiency Act.

⁴³ *Id.*, 7-23.

⁴⁴ 50 Comp. Gen. 589.

⁴⁵ See Richard E. Cohen, [Boehner Finds Litigation Suits Him](#), *Politico*, May 23, 2011.

⁴⁶ Technically, the \$1,415,000 appropriation for salaries and expenses of the Office of General Counsel is an earmark of the lump-sum appropriation for the salaries of officers and employees of the House. 2 *Principles of Federal Appropriations Law*, 6-32 (identifying as an earmark a similar provision for the salaries and expenses of the Office of the Chief Administrative Officer). Spending or obligating funds in excess of a maximum amount specifically earmarked in a lump-sum appropriation violates the Antideficiency Act just as spending in excess of a broader appropriation does. *Id.*, 6-41, 6-81.

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In addition, Speaker Boehner violated the act by directing the general counsel to enter into a contract incurring obligations beyond fiscal year 2011. The contract terminates when the litigation is complete or on January 3, 2013. It is virtually impossible, however, for all of the DOMA cases in which Bancroft intervened to be completed by September 30, 2011, the end of the fiscal year. While the contract allows the general counsel to terminate the contract at any time, reserving a right to terminate “does not save the contract from the prohibition against binding the government in advance of appropriations.”⁴⁷ As a result, the contract creates a liability beyond the fiscal year in which it was entered in violation of the Antideficiency Act.

Speaker Boehner is ultimately responsible for these violations. The Antideficiency Act applies to officers and employees who either “make” or “authorize” an expenditure or obligation in excess of the amount available.⁴⁸ Under House rules, Speaker Boehner directs the Office of General Counsel, appoints the general counsel, and sets the salaries for all of the office’s employees. Speaker Boehner exercised his authority in this case, ordering the Office of General Counsel to initiate a legal defense of DOMA, directing the general counsel and House Administration Committee to ensure that sufficient resources for outside counsel are made available, and participating in efforts to reprogram funds to pay for the litigation. As a result, Speaker Boehner authorized the obligations and expenditures in violation of the Antideficiency Act.

31 U.S.C. § 1301(a) and 31 U.S.C. § 1352

Two other statutes, 31 U.S.C. § 1301(a) and 31 U.S.C. § 1352, bar Speaker Boehner from using funds from an appropriation outside the Office of the General Counsel to defend DOMA or reprogramming funds from other appropriations for the litigation without statutory authority.

Section 1301(a) provides that appropriations “shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.” Under the statute, funds may be used only for the purpose for which they were appropriated, and authorized items may not be charged to the wrong appropriation.⁴⁹ When there is a specific appropriation for a

⁴⁷ *Id.*, 6-54 (citing 28 Comp. Gen. 553 (1949)); *see also id.*, 6-55 (“it is not enough for the government to retain the option to terminate at any time if sufficient funds are not available”).

⁴⁸ 31 U.S.C. § 1341(a)(1)(A).

⁴⁹ 1 *Principles of Federal Appropriations Law*, 4-6.

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particular item, only that appropriation may be used for that purpose, even if there is a more general appropriation broad enough to cover the same item.⁵⁰ Otherwise, agencies could evade or exceed spending limits established by legislation. The purpose of an appropriation primarily is determined by the language of the appropriation act itself, but other sources also may be consulted.⁵¹

Here, \$1,415,000 was appropriated specifically for the “salaries and expenses” of the Office of General Counsel. The purpose of the appropriation is to fund the office, which was established “for the purpose of providing legal assistance and representation to the House.”⁵² This specific purpose precludes the use of funds from other appropriations to pay for legal representation to the House, including representation by outside counsel to defend DOMA’s constitutionality.

It is not clear if funds from other appropriations already have been used to pay Bancroft for the six cases in which it has intervened on behalf of BLAG. Mr. Kircher testified he was advised by House leadership that his office’s budget would not be used to defend DOMA, and Speaker Boehner suggested the money would come from sources other than the Office of General Counsel’s appropriation. Using other funds to pay for the litigation costs, however, would violate 31 U.S.C. § 1301(a).

Mr. Kircher also testified he was told by House leadership the money to pay Bancroft for its litigation services would be “reprogrammed from other sources in the House,” and that Speaker Boehner’s office and members of the House Appropriation Committee were involved in the reprogramming process. Under 31 U.S.C. § 1532, an amount in one appropriation may be withdrawn from the account and credited to another only when authorized by law.⁵³ There has been no such authorization here. In certain circumstances, an agency may “reprogram” funds within an appropriation - that is, use funds within the appropriation for purposes other than those contemplated at the time of appropriation without statutory authority.⁵⁴ An agency, however,

⁵⁰ *Id.*, 2-21, 4-12. This rule applies when an appropriation for a specific purpose is included as an earmark in a general appropriation. *Id.*, 2-22.

⁵¹ *Id.*, 4-9.

⁵² Rule II, cl. 8, Rules of the House of Representatives, 112th Cong. (2011).

⁵³ 1 *Principles of Federal Appropriations Law*, 2-24.

⁵⁴ *Id.*, 2-30.

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may not reprogram funds in violation of specific statutory limitations,⁵⁵ such as when there is a specific appropriation for a particular item.

It is unclear whether Speaker Boehner or members of the House Appropriations Committee already have reprogrammed funds from other appropriations to pay for Bancroft's defense of DOMA, but doing so would violate 31 U.S.C. § 1532.

House Rules

In violating the Antideficiency Act and other federal laws, Speaker Boehner violated the Code of Ethics for Government Service. Late last year, the House censured Rep. Charlie Rangel (D-NY) for violating federal law and House rules. Count XI of the Statement of Alleged Violation against Rep. Rangel charged him with violating clause 2 of the Code of Ethics for Government Service. Specifically, the Committee on Standards of Official Conduct found that by failing to pay taxes in violation of the Internal Revenue Code, Rep. Rangel violated the Code of Ethics for Government Service, which provides:

any person in Government service should:

- ...
2. Uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.⁵⁶

Ultimately, on December 2, 2010, the House censured Rep. Rangel for his conduct.⁵⁷

By censuring Rep. Rangel, the House held that failing to uphold the Constitution, laws and legal regulations of the United States is an ethics violation. As a result, by violating the Antideficiency Act and possibly other federal statutes, Speaker Boehner violated the Code of Ethics for Government Service.

Finally, Speaker Boehner likely violated House Rule 23, which requires all members of the House to conduct themselves "at all times in a manner that reflects creditably on the

⁵⁵ *Id.*, 2-31; see also *Yankton Sioux Tribe v. Kempthorne*, 442 F. Supp. 2d 774, 786 (D.S.D. 2006) (an agency is not restricted in its ability to reprogram unless there is a specific statutory limitation on the use of a lump sum appropriation).

⁵⁶ Committee on Standards of Official Conduct, Investigative Subcommittee in the Matter of Charles B. Rangel, Statement of Alleged Violation, adopted June 17, 2010; see also 72 Stat., Part 2, B12 (1958), H. Con. R. 175, 85th Cong. (cited in the House Ethics Manual at 20, 355).

⁵⁷ 156 Cong. Rec. H7899 (December 2, 2010).

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House.”⁵⁸ This ethics standard is considered to be “the most comprehensive provision” of the code.⁵⁹ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.⁶⁰ This rule has been relied on by the Ethics Committee in numerous prior cases in which the committee found unethical conduct, including: the failure to report campaign contributions,⁶¹ making false statements to the committee,⁶² criminal convictions for bribery,⁶³ accepting illegal gratuities,⁶⁴ and accepting gifts from persons with interest in legislation in violation of the gift rule.⁶⁵

⁵⁸ Rule 23, cl. 1.

⁵⁹ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

⁶⁰ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

⁶¹ House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

⁶² House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743(Counts 3-4).

⁶³ House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (Member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (Member resigned after Committee recommended expulsion). In another case, the Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the Member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

⁶⁴ House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (Member resigned while expulsion resolution was pending).

⁶⁵ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).

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June 14, 2011
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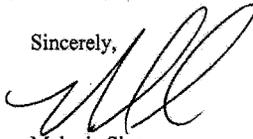
It does not reflect creditably on the House for the Speaker of the House to violate any federal law or House rule. As Speaker Boehner vocally and vociferously has called for a new era of government fiscal austerity, it is even more egregious for him to have violated federal laws designed to prevent the government from overspending. By authorizing the expenditure of funds the government does not have in violation of the Antideficiency Act and other laws, Speaker Boehner's conduct does not reflect creditably on the House.

Conclusion

The Office of Congressional Ethics should commence an immediate investigation and forward this matter to the House Committee on Standards of Official Conduct and any other relevant government authorities for appropriate action.⁶⁶

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Melanie Sloan
Executive Director
Citizens for Responsibility and
Ethics in Washington

Encls.

cc: Office of the Inspector General

⁶⁶ As the violations raised in this complaint implicate financial irregularities, a copy is being forwarded to the House Office of the Inspector General, which is authorized to "provide audit, investigative, and advisory services to the House." Rule II, cl. 6, Rules of the House of Representatives, 112th Cong. (2011). The Office of the Inspector General may report to the Committee on Standards of Official Conduct information involving possible violations of any House rule or any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to appropriate federal authorities. *Id.*



United States Government Accountability Office
Washington, DC 20548

B-322147

July 6, 2011

The Honorable Ander Crenshaw
Chairman
Subcommittee on the Legislative Branch
Committee on Appropriations
House of Representatives

Subject: *Contract for Legal Services*

This responds to your letter dated June 21, 2011, requesting our views with respect to a contract entered into by the House Office of General Counsel for the services of outside counsel to represent the House Bipartisan Legal Advisory Group¹ in certain matters. Letter from Chairman, House Appropriations Subcommittee on the Legislative Branch to General Counsel, GAO (June 21, 2011) (Request Letter). Specifically, your letter asked that we address two questions: (1) What obligation did the House Office of General Counsel incur when the General Counsel entered into the contract, and did the House General Counsel violate the Antideficiency Act when he signed the contract? (2) To the extent that the obligation for the contract may implicate the availability of funds for other activities and expenses of the House Office of General Counsel, may the House exercise its transfer authorities under title 2 of the U.S. Code to transfer to the Office of General Counsel appropriations adequate to cover its expenses to avoid any potential Antideficiency Act violation?

For the reasons stated below, based on the information provided, we conclude that when the House General Counsel entered into the contract on April 25, 2011, the House Office of General Counsel incurred an obligation of \$500,000 against its appropriation for salaries and expenses. The House Chief Administrative Officer has advised us that there was an adequate unobligated balance to satisfy the obligation. We conclude, therefore, that the House General Counsel did not violate the Antideficiency Act, 31 U.S.C. § 1341(a). In addition, because of the statutory authorities to transfer appropriations of the House of Representatives, the House may

¹ The Bipartisan Legal Advisory Group is a five-member panel of House Leadership consisting of the Speaker of the House, Majority Leader, Majority Whip, Minority Leader, and Minority Whip. See Rule II, cl. 8, Rules of the House of Representatives at 3, 112th Cong. (2011).

transfer amounts to the Office of General Counsel's appropriation, as needed, in order to avoid Antideficiency Act violations.²

BACKGROUND

On February 23, 2011, the Attorney General advised the Speaker of the House of Representatives that the President had determined that section 3 of the Defense of Marriage Act (DOMA), codified at 1 U.S.C. § 7, violates the Equal Protection Clause of the Fifth Amendment to the U.S. Constitution. Letter from the Attorney General to the Speaker, *Re: Defense of Marriage Act* (Feb. 23, 2011). The Attorney General stated that, as a result, the Department of Justice (DOJ) would no longer defend the constitutionality of section 3 of DOMA. *Id.* at 6. However, the Attorney General noted that DOJ would notify the relevant courts of DOJ's interest in providing Congress a full and fair opportunity to participate in the litigation of pending cases. *Id.*

In response, and with the authorization of the Bipartisan Legal Advisory Group, the Speaker directed the House General Counsel to take appropriate steps to defend the constitutionality of DOMA, including retaining outside counsel to represent the Bipartisan Legal Advisory Group in ongoing litigation. Request Letter at 1. Accordingly, on April 25, 2011, the House General Counsel signed a contract with the law firm of Bancroft PLLC to represent the Bipartisan Legal Advisory Group as a party or an amicus in civil actions litigating the constitutionality of section 3 of DOMA.³ See Contract for Legal Services between General Counsel, U.S. House of Representatives, and Bancroft PLLC, April 25, 2011 (Contract).

Under the Contract, the House General Counsel agreed to pay Bancroft PLLC "a sum not to exceed \$500,000."⁴ Contract, ¶ 2. The Contract will terminate the earlier of the completion of the litigation of civil actions involving the constitutionality of section 3

² Our practice when issuing decisions and opinions is to develop a factual record on the subject matter of the request. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/legal/resources.html. The record in this case consists of the Request Letter and the contract at issue. Because of your need for an expedited opinion, we obtained additional information via teleconferences with the House General Counsel and Chief Administrative Officer on June 24 and June 28, 2011.

³ We note that the acquisition procedures prescribed for executive agencies by the Federal Acquisition Regulation do not apply to the House of Representatives. See 41 U.S.C. § 133 and § 1121.

⁴ The contract also includes a provision allowing the cap to be raised by written agreement of the parties. Contract, ¶ 2.

of DOMA or on January 3, 2013, unless sooner terminated by the House General Counsel.⁵ Contract, ¶¶ 1, 8.

For fiscal year 2011, Congress appropriated a lump sum for “Salaries and Expenses” of the House of Representatives. See Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10, div. B, § 1101(a)(5), 125 Stat. 38, 102–103 (Apr. 15, 2011); Legislative Branch Appropriations Act, 2010, Pub. L. No. 111-68, 123 Stat. 2023, 2027 (Oct. 1, 2009). Under the heading “Salaries, Officers and Employees,” the appropriations act specifies particular amounts from the lump sum to the various offices and activities of the House of Representatives, including an amount “for salaries and expenses of the Office of General Counsel.” Pub. L. No. 111-68, 123 Stat. at 2028.

DISCUSSION

Obligational Event and Antideficiency Act

The first question has two parts: (a) what obligation did the Office of General Counsel incur when the House General Counsel signed the contract, and (b) did the House General Counsel violate the Antideficiency Act at that time?

A general definition of an obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. See *McDonnell Douglas Corp. v. United States*, 37 Fed. Cl. 295, 301 (1997); B-300480, Apr. 9, 2003; 42 Comp. Gen. 733, 734 (1963); B-116795, June 18, 1954; see also GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: September 2005), at 70. When it signs a contract, the government incurs a legal liability—that is, a claim that may be legally enforced against the government. B-308969, May 31, 2007; B-300480.2, June 6, 2003; see also *Glossary*, at 63. The amount of the government’s obligation is ascertained from an analysis of the terms and conditions agreed to by the government and the party with whom it has contracted. See 42 Comp. Gen. at 734.

Here, the House General Counsel signed a contract with Bancroft PLLC on April 25, 2011, acquiring specified legal services from Bancroft PLLC for the Bipartisan Legal Advisory Group up to an amount of \$500,000: “The General Counsel agrees to pay the Contractor for all contractual services rendered a sum not to exceed \$500,000.00.” Contract, ¶ 2. The Contract does not envision task orders from the General Counsel to the contractor. The quantum of contractual services to be rendered is limited by the \$500,000 cap on payment to the contractor and by the Contract’s definition of the legal services to be provided, and is not contingent upon the issuance of task orders.

⁵ The House of Representatives has authority to enter into multiyear contracts. 41 U.S.C. § 3904(c).

We addressed a situation similar to this in a 2003 opinion analyzing the obligational consequences of grant agreements of the Corporation for National and Community Service (Corporation). B-300480, Apr. 9, 2003; *see also* B-300480.2, June 6, 2003. In that case, the Corporation entered into binding agreements with its grantees authorizing the grantee to enroll up to a specified number of new participants in the AmeriCorps program. At the time of agreement, the Corporation was legally committed to fund education benefits for all participants up to the number of participants specified in the agreement. We found that the Corporation had incurred a legal duty when it authorized the grantee to enroll a specified number of participants, thereby ceding control to the grantee with respect to the government's fiscal exposure.

Similarly, in this case, the Contract stated that the government would pay up to a particular amount "for all contractual services rendered." Here, as in the case of the Corporation, the contractor, not the government, controls the government's fiscal exposure, up to \$500,000. Therefore, we conclude that at the time the contract was signed, the House General Counsel incurred an obligation for \$500,000, which was its maximum potential liability under the contract.⁶

The Antideficiency Act prohibits an officer or employee of the United States Government from making an obligation in excess of available appropriations. 31 U.S.C. § 1341(a)(1). In our view, the contract is an obligation of the appropriations for the Office of General Counsel found under the heading "Salaries, Officers and Employees." That amount is made available "for salaries and expenses" of the Office of General Counsel. *Id.* The House General Counsel signed the Contract to obtain legal services from Bancroft PLLC. The Rules of the House of Representatives establish the Office of General Counsel "for the purpose of providing legal assistance and representation to the House." *Rules of the House of Representatives*, 112th Cong., rule II, cl. 8 (2011). The rule specifies that the Office of General Counsel "shall function pursuant to the direction of the Speaker." *Id.* Consequently, the \$500,000 obligation for the Contract is chargeable against the appropriation for the salaries and expenses of the Office of General Counsel.

The House Chief Administrative Officer has certified to us that there was an adequate unobligated balance in that account to satisfy this obligation. Thus, the House General Counsel did not violate the Antideficiency Act when he signed the Contract.

⁶ We note that the Contract provides for the possibility of raising the \$500,000 cap by written agreement of the parties and approval of the Committee on House Administration of the House of Representatives. Contract ¶ 2. The amount of the obligation will not increase beyond \$500,000, unless and until the General Counsel and Bancroft PLLC enter into an agreement to increase the cap.

Transfers

The second question addresses the possibility that the \$500,000 obligation might implicate the availability of funds for other activities and expenses of the Office of General Counsel. You ask if the House, as necessary, may exercise its title 2 authorities to provide the Office of General Counsel with adequate funds to cover other salaries and expenses to avoid any Antideficiency Act problems.

Title 2 of the U.S. Code authorizes the House of Representatives to transfer amounts among the various appropriations under the heading, "Salaries, Officers and Employees," as follows:

"Amounts appropriated for any fiscal year for the House of Representatives under the heading 'SALARIES, OFFICERS AND EMPLOYEES' may be transferred among and merged with the various offices and activities under such heading. . . ."

2 U.S.C. § 95b(b). The House Office of General Counsel is one of the offices funded under this heading.

In addition, amounts appropriated for any fiscal year for the House of Representatives under the following headings may be transferred among and merged with each other: "House Leadership Offices," "Members' Representational Allowances," "Committee Employees," "*Salaries, Officers and Employees*," and "Allowances and Expenses." 2 U.S.C. § 95b(c) (emphasis added). These headings are found in the appropriations act under the caption, "Salaries and Expenses." In each case, the House Committee on Appropriations must receive advance notice of transfer. 2 U.S.C. §§ 95b(b), (c).

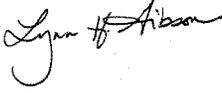
Accordingly, should the Office of General Counsel require additional funds to carry out its responsibilities during the remainder of fiscal year 2011, the House, under 2 U.S.C. § 95b, may provide the Office of General Counsel with additional amounts from other headings to avoid Antideficiency Act violations.

CONCLUSION

Because there was an adequate amount in the appropriation for the Office of General Counsel to cover the \$500,000 obligation for the Contract, the House General Counsel did not violate the Antideficiency Act, 31 U.S.C. § 1341(a), when he signed the contract. In addition, the House has statutory transfer authority that the House may utilize to increase the Office General Counsel's fiscal year 2011 appropriation for salaries and expenses in order to avoid Antideficiency Act violations.

If you have any questions, please contact Thomas H. Armstrong, Acting Managing Associate General Counsel, at (202) 512-8257.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lynn H. Gibson". The signature is written in a cursive style with a large initial "L".

Lynn H. Gibson
General Counsel

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EDITORIAL The Duty of Counsel

Published: April 27, 2011

We strongly oppose the federal statute known as the Defense of Marriage Act, which bans recognizing same-sex marriage. House Republicans should not have used taxpayer money to hire outside lawyers to defend it. But the decision of those lawyers, the law firm of King & Spalding, to abandon their clients is deplorable.

Related
King & Spalding had no ethical or moral obligation to take the case, but in having done so, it was obliged to stay with its clients, to resist political pressure from the left that it feared would hurt its business. Paul Clement, a former solicitor general who quit as partner in King & Spalding over the decision, said, "a representation should not be abandoned because the client's legal position is extremely unpopular in certain quarters."

Justice is best served when everyone whose case is being decided by a court is represented by able counsel.

When Brown v. Board of Education was argued almost 60 years ago, two of the great American lawyers squared off, Thurgood Marshall for the winning side of desegregation and the renowned Wall Street lawyer John Davis for the principle of separate but equal. Segregation in public schools was the law of the land then.

The Defense of Marriage Act, which was signed by President Bill Clinton in 1996, remains on the books despite rulings against it. That did not mean the administration was required to defend the law, and it was right to decide to stop. But that is separate from the law firm's action.

About twice every three terms, the justices hear a case in which one side is abandoned by a party in the lower courts. The court appoints counsel for that unpopular side, and he argues for the client as best he can. Last week, Chief Justice John Roberts Jr. expressed the court's gratitude to the appointed lawyer in such a case. King & Spalding seems to have forgotten that ideal of advocacy.

A version of this editorial appeared in print on April 28, 2011, on page D1 with the headline: The Duty of Counsel.

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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LUIS FRANCISCO TORRES-BARRAGAN and PATRICK CLARK,
Plaintiffs-Appellants,

v.

ERIC H. HOLDER, JR., U.S. Attorney General, et al.,
Defendants-Appellees.

On Appeal from a Final Order of the U.S. District Court
for the Central District of California

**PROPOSED INTERVENOR'S REPLY
TO EXECUTIVE BRANCH DEFENDANTS' OPPOSITION
TO MOTION FOR DENIAL OF VOLUNTARY DISMISSAL OF APPEAL**

Kerry W. Kircher, General Counsel
William Pittard, Deputy General Counsel
Christine Davenport, Sr. Ass't Counsel
Kirsten W. Konar, Ass't Counsel
Todd B. Tatelman, Ass't Counsel

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March 26, 2012

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Bipartisan Legal Advisory Group
of the U.S. House of Representatives*

The Executive Branch's opposition to the House's Mot. for Denial of Voluntary Dismissal of Appeal . . . (Mar. 15, 2012) (ECF No. 52) ("Mot."), confirms that there is nothing typical about this appeal, and that dismissal is not appropriate. The Department acknowledges that whether DOMA Section 3 is constitutional is an issue of major national importance. *See* Resp. to Opp. to Dismissal (Mar. 20, 2012) (ECF No. 53) ("Resp. Br."). It implicitly acknowledges that the Executive Branch has acquiesced in a course of action that effectively has abated enforcement of Section 3 against Mr. Torres-Barragan. And it does not deny that, as a result of its remarkable decision to *affirmatively attack* Section 3 – rather than simply to step aside and not defend, as the Attorney General said it would – the Executive Branch is effectively a plaintiff-appellant here, fully capable of litigating this appeal.

Given these unique circumstances, this Court should not dismiss this appeal. Rather, it should permit the House to intervene, and set a briefing schedule that will permit the constitutional issues to be thoroughly and expeditiously considered.

DISCUSSION

I. The Executive Branch Is Fully Aligned with the Plaintiffs Here.

The Department says it is merely acceding to the wishes of Messrs. Torres-Barragan and Clark that this matter be dismissed. *See* Resp. Br. at 2. But this omits the crucial fact that, in this case, the Department *agrees* with the plaintiffs

and believes they should win. The Department is wholly aligned with Messrs. Torres-Barragan and Clark, and their litigation goals are one and the same: to have DOMA Section 3 struck down as unconstitutional.¹

Accordingly, this is not a case in which the Department is content with a judgment in favor of its clients. Instead, the Department wishes to scuttle an appeal from a judgment upholding a statute it says is unconstitutional. This behavior can only be explained as an effort to prevent – *for purely strategic reasons* – this Court from reviewing the district court’s ruling, as the procedural history of this case, and other DOMA litigation in this Circuit, confirms.

1. The Attorney General announced in February 2011 that the Department believed DOMA was unconstitutional, and that it would cease to defend DOMA. *See* Letter from Eric H. Holder, Jr., Att’y Gen., to the Hon. John A. Boehner, Speaker, U.S. House of Representatives (Feb. 23, 2011) (ECF No. 23) (“Holder Letter”). The Holder Letter said nothing about the Department affirmatively attacking that statute in court. Nevertheless, within a few short months, the Department moved from its original position of simply not defending to *actively*

¹ Messrs. Torres-Barragan and Clark have not responded to the House’s Motion. Apparently they are content to let the Department do their work for them, or they implicitly acknowledge that the joint effort to have this appeal dismissed is based on a strategic calculation that their shared goal is more effectively advanced if this Court does not consider the issue of Section 3’s constitutionality in this particular case.

*and affirmatively attacking the statute in court.*² To date, the Department has filed substantive briefs which argue that DOMA Section 3 is unconstitutional in eight cases around the country.

2. The Attorney General also stated that “the President has instructed Executive agencies to continue to comply with Section 3 of DOMA, consistent with the Executive’s obligation to take care that the laws be faithfully executed, unless and until Congress repeals Section 3 or the judicial branch renders a definitive verdict against the law’s constitutionality.” *Id.* at 5. That promise also appears to be illusory, as this case demonstrates.

The Department of Homeland Security (“DHS”) prevailed before the Board of Immigration Appeals (“BIA”) in all of the administrative proceedings that led to the filing by Mr. Torres-Barragan of the review petitions in Nos. 08-73745 and 09-71226. *See* Mot. at 4-5. The Department prevailed in the district court proceedings that led to this appeal (before it subsequently abandoned its defense of DOMA).³ And, when this Court remanded Nos. 08-73745 and 09-71226 to the

² It did so with no explanation of how it can be appropriate for the principal Executive Branch agency by which the President carries out his constitutional responsibility to “take Care that the Laws be faithfully executed,” U.S. Const. art. II, § 3, actively to work to bring down laws it does not like.

³ Indeed, the case was not a hard one: in *Adams v. Howerton*, 637 F.2d. 1036, __ (9th Cir. 1982), this Court “h[e]ld that Congress’s decision to confer spouse status under section 201(b) only upon the parties to heterosexual marriages has a rational basis and therefore comports with the due process clause and its

BIA at the request of Mr. Torres-Barragan (which remand request the Department did not oppose), Mot. at 10, it was clear there was nothing for the BIA to do, other than affirm its earlier decisions, as DHS itself acknowledged. *See* Remand Br. of DHS, *In re Torres-Barragan*, No. A-098-323-725 (BIA Nov. 14, 2011), attached as Ex. A; *see also* Request to Appear . . . & Mem. of [House] as Amicus Curiae, *In re Torres-Barragan*, No. A-098-323-725 (BIA Nov. 14, 2011), attached as Ex. B.

Notwithstanding that DHS prevailed at every step in the administrative proceedings (and that this would not change on remand), that the Department prevailed below, and that the Attorney General said the Executive Branch would continue to enforce DOMA, DHS jointly moved with Mr. Torres-Barragan to administratively close those proceedings. *See* Mot. at 12. In effect, the Executive Branch decided to *not enforce* the law against an individual who undisputedly is present in the country unlawfully, and against whom the Executive Branch had prevailed at every step.⁴

equal protection requirements,” and the Department correctly argued below that this holding is “directly on point and dispositive.” Mot. to Dismiss at 18, *Torres-Barragan v. Holder*, No. 2:09-cv-08564 (C.D. Cal. Mar. 5, 2010) (ECF No. 7). The district court agreed, concluding that “[t]he matter has already been addressed by the Ninth Circuit in *Adams*.” *Torres-Barragan v. Holder* at 2, No. ____ (C.D. Cal. Apr. 30, 2010) (ECF No. 34).

⁴ As the House noted earlier, and the Department does not deny, this appeal is not moot because Mr. Torres-Barragan remains without legal status and faces a range of more minor immigration-related disabilities. Mot. at ____.

3. The Attorney General also said the Department intended to give Congress a “full and fair opportunity to participate in the litigation of [the DOMA cases].” Holder Letter at 6. The Department’s efforts to dismiss this case fly in the face of that promise.

The Department is well aware that (i) the issue of DOMA Section 3’s constitutionality ultimately will have to be resolved by the Supreme Court, *see id.* at 5; (ii) the road to the Supreme Court lies through the Circuit Courts; and (iii) it is not possible to predict, in advance, how the issue of Section 3’s constitutionality will make its way through the Circuit Courts to the Supreme Court. In addition, the Department is well aware that, in light of all this, the House does not believe it is appropriate to pick and choose DOMA cases for review by the Circuit Courts, but rather believes that the appellate process should be allowed to go forward in every case in which a district court rules on Section 3’s, either on an appeal by the House if it does not prevail below, or by the Department if it does.

Nevertheless, the Department has stood in the way of the House’s effort to advance the ultimate resolution of Section 3’s constitutionality in this case by way of the joint Rule 42 filing, even though we expressly asked the Department not to support dismissal. And it did so in *Lui* – another Section 3 case that arose in the context of immigration benefits and in which the district court upheld Section 3’s constitutionality, *see* ____ No. 2:11-cv-01267-SVW-JCG (C.D. Cal. Sept. 28,

2011) (ECF No. 38) (dismissing complaint on basis of *Adams*) – when it refused our request that it appeal the merits of a decision that was adverse to the Executive Branch Defendants in that case.⁵

* * *

The net result of all this is that the Executive Branch, in this and every other DOMA case, are defendants in name only. They are functioning in every meaningful sense as plaintiffs and, as such, they clearly have made a strategic

⁵ In *Lui*, the House appealed the district court’s dismissal of plaintiffs’ complaint “without prejudice.” See Intervenor-Def.’s Notice of Appeal, *Lui v. Holder*, No. 2:11-cv-01267 (SVW) (JCGx) (C.D. Cal. Nov. 28, 2011) (ECF No. 46). While the Department did file a notice of appeal in that case, it did not appeal the merits of the district court’s constitutional ruling, as we asked it to. Instead, the Department appealed the *very same issue the House had appealed*, see Mediation Questionnaire, *Lui v. Holder*, No. 11-57166 (9th Cir. Dec. 14, 2011) (ECF No. 3), as part of its continuing charade that the House cannot file such pleadings on its own, a position every court that has considered the issue has rejected.

In this same vein, the Department says elsewhere that the House “lack[s] a cognizable interest” in the DOMA cases in which the House has intervened. Resp. Br. at 7. That assertion is factually and legally baseless. To date, all nine federal courts that have ruled on such House motions to intervene, have permitted House intervention and, in so doing, have recognized that the House has a cognizable interest in the litigation. See, e.g., Mem. & Order at 6, *Windsor v. United States*, No. 1:10-cv-08435-BSJ-JCF (S.D.N.Y. June 2, 2011) (ECF No. 26) (“BLAG has a cognizable interest in defending the enforceability of statutes the House has passed when the President declines to enforce them.”).

decision to try to prevent this Court from considering the issue of Section 3's constitutionality in cases that arise in the context of immigration-related benefits.⁶

II. The Department's "Complexity" Excuse Is Only That – an Excuse.

The Department attempts to explain away its strategic maneuvering in this case, *see* Mot. at 7-12, by saying that its *four* requests for extensions of time to file an opening brief in this case were standard operating procedure, the same requests the Department would have made in "other cases of comparable importance and complexity." Resp. Br. at 5. This is highly questionable at best.

Before abandoning its ordinary constitutional responsibilities in February 2011, the Department successfully defended DOMA Section 3 against equal protection attacks for many years. *See* Mot. at 8 n.6. It knows the issues well. As noted above, in this very case, the Department successfully moved to dismiss Messrs. Torres-Barragan's and Clark's complaint before the district court. *See supra* at ____.

Accordingly, the Department's "complexity" explanation is baseless, particularly as one of its requests came a mere ten days before, and another came *after*, the Attorney General's February 2011 pronouncement. *See* Mot. at ____.

⁶ Other groups who wish to see DOMA Section 3 struck down have made the same calculation. For example, five of those groups filed a highly unusual *amicus* brief with this Court, not on the merits, but solely in response to Mr. Torres-Barragan's *unopposed* remand motion, asking this Court *not* to review DOMA's constitutionality. *See* _____ (ECF No. 39).

III. The Department Should Not Be Permitted to Pick and Choose Which Section 3 Cases This Court Should Review.

The Department's final excuse for its attempt to terminate this appeal is that the House should be satisfied with another appeal currently pending in this Court, *Golinski v. OPM*, Nos. 12-15388, 12-15409 (9th Cir.). See Resp. Br. at 6. But the *Golinski* appeal only confirms the Department's *strategic* desire to have this Court consider DOMA Section 3 only in cases that are factually and procedurally compatible with the Executive's interests in seeing the law struck down.

The plaintiff in *Golinski* initially sought benefits for her same-sex spouse through non-constitutional mandamus relief. See *Golinski v. OPM*, 781 F. Supp. 2d 967, 970 (N.D. Cal. 2011). Less than a month after the Department abandoned the constitutional defense of DOMA, the *Golinski* Court dismissed that claim. In doing so, however, the Court stated that it "would, if it could, address the constitutionality of . . . the legislative decision to enact Section 3 of DOMA to unfairly restrict benefits and privileges to state-sanctioned same-sex marriages," but found itself "not able to reach these constitutional issues due to the unique procedural posture of this matter." *Id.* at 975. In light of this invitation, the plaintiff amended her complaint to challenge Section 3 on equal protection grounds, and the *Golinski* Court subsequently held that Section 3 is subject to heightened scrutiny and is unconstitutional under that standard. *Golinski v. OPM*, 2012 WL 569685 (Feb. 22, 2012). The House has appealed that judgment.

During this 11 month period – between the *Golinski* Court’s invitation to plaintiff to file a constitutional challenge to Section 3 and the House’s appeal of that Court’s ruling – the Executive Branch, in this case, chose to not oppose the legally unwarranted remand of Mr. Torres-Barragan’s petitions from this Court to the BIA, and then requested administrative closure of the immigration proceedings, paving the way for the Department’s current effort to have this appeal dismissed. And during this same period, as noted above, the Department refused the House’s request that it appeal to this Court the merits of the *Lui* decision. *See supra* at ___.

The cumulative effect of these decisions is clear. After unilaterally declaring DOMA unconstitutional and filing briefs advocating that position across the country, the Department has acted – in an extended and comprehensive fashion, in cooperation with plaintiffs and the calculated support of *amicus* groups that support the striking down of Section 3 – in a manner that would permit this Court to review Section 3 only in cases in which the district court already has struck down the statute. That is not a basis upon which this Court should dismiss this appeal. *See Mot.* at 12-13.

The Department should not be permitted to cherry pick the cases that this and other Courts of Appeals will consider. This is particularly true here because there is no guarantee the *Golinski* case will be decided promptly, or at all, or on grounds that would render the decision worthy of certiorari. Instead, the Court

should decline to dismiss this appeal and then consider whether to consolidate the briefing in this case with the briefing in *Golinski* in order to provide itself with as thorough an understanding as possible of Section 3's workings, and thereby increase the probability of a comprehensive ruling on the statute's constitutionality.

CONCLUSION

Obviously, this is a unique case. The Executive Branch actively is trying to invalidate a duly enacted federal statute which it does not like. Another branch of the federal government – one not normally charged with doing the Department's job for it – is doing precisely that, defending the statute in the courts. Because the Executive Branch defendants in this and other DOMA cases have aligned themselves with the plaintiffs, this inter-branch conflict is costing the American taxpayers money on both sides of every case. The constitutionality of DOMA Section 3 needs to be resolved as promptly as possible, and the only way to ensure that that happens is for this Court to decline to acquiesce in a course of action that, if permitted, would artificially skew the Court's perspective on DOMA by preventing its consideration of certain DOMA cases – including this one.

Accordingly, for all the reasons articulated above and earlier, the House's motion for denial of voluntary dismissal should be granted.

Respectfully submitted,

BANCROFT PLLC

By: /s/ Paul D. Clement
Paul D. Clement

Counsel for Proposed Intervenor

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2012, I electronically filed the foregoing Proposed Intervenor's Reply to Department's Opposition to Motion for Denial of Voluntary Dismissal with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit using the appellate CM/ECF system. I further certify that all parties in this case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ *Conor B. Dugan*

Conor B. Dugan

ATTORNEY GENERAL WILL NOT DEFEND LAW

Mr. LATOURETTE. And the pertinent part, it says, on February 23 of last year, the Attorney General advised the Speaker that the President had determined he wasn't going to defend this law anymore. The Attorney General noted that DOJ would notify the relevant courts of DOJ's interests in providing Congress a full and fair opportunity to participate in the litigation.

In response, the authorization that the House Counsel is operating under came from the Bipartisan Legal Advisory Group. And correct me if I am wrong, but the Bipartisan Legal Advisory Group is made up of the Speaker, the Majority Leader, the Minority Leader, and the Whip. Is anybody else on it?

Mr. KIRCHER. Both Whips.

Mr. LATOURETTE. Both Whips. And did they all sign the letter?

Mr. KIRCHER. The letter?

Mr. LATOURETTE. Saying that they were retaining outside counsel for the purpose, this purpose.

Mr. KIRCHER. No, the contract was signed by me.

Mr. LATOURETTE. No, no, I am not talking about the contract.

Mr. KIRCHER. Okay.

Mr. LATOURETTE. How did you get the authorization from the Bipartisan Legal Advisory Group?

Mr. KIRCHER. The group met, and they voted.

Mr. LATOURETTE. And they voted to have the Speaker direct you to engage in the representation.

Mr. KIRCHER. Yes.

Mr. PRICE. Will the gentleman yield? Was that a unanimous vote?

Mr. LATOURETTE. We are getting to that. I am just asking him who signed the letter.

Mr. PRICE. The vote of the bipartisan council?

Mr. KIRCHER. No, the vote was not unanimous.

Mr. LATOURETTE. And then, in response to this issue last year, I don't know if anybody is on the CJS Subcommittee, but in the report that they filed last year, which recognized that the Justice Department wasn't going to defend this case, Mr. Wolf and his subcommittee indicated that, based upon that announcement—he called it an extraordinary announcement—as a result, the committee's recommendation recognizes that the resources that go to the Department of Justice for the purpose of the defense of DOMA are no longer necessary, and instead, that cost burden should be shifted over to the House of Representatives and I assume funds as well. So, again, I don't know what we are fussing about. But thank you.

Mr. CALVERT. I thank the gentleman.

I would first like to make a statement about the OIG audit of the House for fiscal year 2011.

FOOD SERVICE CONTRACT

Congratulations on a clean audit. Good job.

As I understand it, the 2009 and 2010 audits reported adverse opinions on the internal controls. This is the first time in the history of the House the audit has been completed as soon as it has

in this fiscal year, and you should be congratulated for that. If we are looking for money to pay for legal fees, I have a suggestion.

I understand that you are renegotiating your food service contract with Restaurant Associates? Is that correct?

Mr. STRODEL. Not yet.

Mr. CALVERT. Well, I hope you will get the opportunity soon. I understand that, in spite of the controversy, switching compost service over to Styrofoam saved a significant amount of money. Is that correct?

Mr. STRODEL. Yes, sir, Mr. Calvert.

Mr. CALVERT. Being in the restaurant business most of my life, I think that organic food is a wonderful thing, but I know most American families can't afford to buy organic food. It is a nice choice for folks to be able to make in the free marketplace. However, I don't know if that is necessarily the case here when people must eat at the cafeterias. What kind of premium do you pay for this type of food product?

Mr. STRODEL. The structure of the contract, Mr. Calvert, is a commission-based service contract. So there is no cost to the House.

Mr. CALVERT. It is a cost, however, to the people who must consume the food at the cafeterias. Isn't that correct?

Mr. STRODEL. Yes, I am sure it is factored in.

Mr. CALVERT. Do you know what percentage of food served in the cafeteria is considered organic?

Mr. STRODEL. I do not know.

Mr. CALVERT. Do we have any cost-benefit analysis on providing organic food, or was the sustainability objective the only consideration used for that purpose?

Mr. STRODEL. I think sustainability was the prime mover at the time. But there is certainly an element of interest in organic and local food.

Mr. CALVERT. I think there should be an option that in any future contract, you can have organic food that people can acquire if they choose to acquire it. But they shouldn't be forced to acquire something at a higher price if they choose not to. You know, I believe in choice, in some issues, and this is certainly one of them.

Mr. HONDA. Some issues.

Mr. CALVERT. And people should be able to buy the food product they desire or can afford. And we don't overpay people around here, as Mr. Honda pointed out. We ought to make sure that we provide affordable food products for those who serve this institution.

So, with that, I yield back the balance of my time.

Mr. CRENSHAW. Thank you, Mr. Calvert.

I will go to Mr. Bishop.

SECURITY ASSESSMENTS FOR MEMBER OFFICES

Mr. BISHOP. Thank you very much.

Let me welcome all of you back to the committee.

I want to welcome Mr. Irving. I think this is his first time. You seem to have been spared the heat so far, so I think I will just invite you into the conversation.

Mr. IRVING. Thank you very much.

Mr. BISHOP. I really wanted to follow up on an issue that we had been working on with Mr. Livingood since the incident out in Ari-

zona with Gabby Giffords. We were wondering if you could give the subcommittee some information on the coordination with the Sergeant at Arms Office with the Capitol Police on security assessments for Member offices that were directed after the incident with Ms. Giffords.

Can you let us know whether or not you will be making any new suggestions for the 113th Congress, when our leases are up for renewal at the beginning of the next year?

Can you also tell us whether or not the Senate Sergeant at Arms Office is structured in such a way that it can better respond to real or perceived threats against Members of the Senate and their staff than the House Sergeant at Arms Office? Does the Senate Sergeant at Arms have additional resources that you do not have with regard to your ability to provide assistance to Members of the Senate in terms of physical security for their offices? How does the Senate Sergeant at Arms protect Members of the Senate versus your capacity to protect Members of the House, particularly the district offices?

I think the Capitol is pretty secure but in light of the Giffords incident we are concerned. I think this committee has a responsibility to make sure that there are adequate resources in place to protect Members when they are in their districts or away from the Capitol.

Mr. IRVING. Yes, in terms of an update on district office security, the Law Enforcement Coordinator Program has been working very, very well. We have tremendous input on collaboration with all Member offices. We certainly continue that robust dialogue to make sure that the Law Enforcement Coordinators are doing everything that they can, not only in terms of the security assessments for their offices, but also to notify us and notify local, State, county law enforcement any time a Member has a public event.

So that program has gone on very, very well. And we have, obviously, also a robust dialogue with the Capitol Police to ensure that they are looped in to follow up on those site security assessments with the Member offices. In terms of the leases for the 113th Congress, our recommendation, which we passed along on this continuing dialogue, is to let us know as soon as possible, for new Members to let us know as soon as possible, even existing Members, if they are going to move, where they may be looking for space, because if we can do a site security survey early in the process and identify some security weaknesses, we can certainly have those built into a lease, so it is not a capital improvement that could not be funded.

So we try to get those built in early. But the key is to have early preview on those sites and on those locations that a Member may be interested in moving to. And then again we will come in, we will have our team come in and have the Capitol Police review and do a site security survey of those projected offices. But, again, the key is early warning.

In terms of the difference between the House and the Senate, the Senate is structured a little bit differently. They have fewer offices. And the Senate Sergeant at Arms does actually go out and provide some funding for security upgrades versus the House. So there is

a difference there, I think primarily based on the number of offices that they have versus the number that we have.

Mr. BISHOP. Would it enhance your ability to protect Members of the House and their staffs and their constituents who visit with them outside of the Capitol in their districts if you had similar resources? Obviously, it would have fiscal impact. But in terms of physical security, would that not enhance your ability to do your job in terms of protecting Members, staff, and constituents?

Mr. IRVING. I think some Members would probably institute more security measures if it did not come out of their individual MRA. But I will say that we have done, the Capitol Police has done a phenomenal job at continuing this dialogue with Member offices to come in as fiscally responsible as possible to institute security measures and the countermeasures that really assist the Members in their district offices. Money is not always the answer. So we have really come up with some pretty fiscal cost-effective measures to do with robust security measures in those district offices. So I think we have a lot of positives here. But certainly, there is a different structure in the Senate because of the number of offices that they have versus ours.

Mr. BISHOP. Yes. I would like to really commend the Sergeant at Arms and the Capitol Police for the assessment program and also the local law enforcement contact program. That has worked very well for us personally. I can vouch for that.

But at the same time, given the fiscal restraints that the House is under with regard to our MRAs, it seems very, very challenging to have the kind of security in our district offices if it has to come out of the MRA, because we are having to tighten our belts in any number of ways. If there was a security fund that could be administered by the Sergeant at Arms and implemented by the Capitol Police to make sure that such measures were cost-effective and were actually needed, that was controlled by you as opposed to by the Members, would that not give you a little more flexibility and a little more power and effectiveness in carrying out that security responsibility?

Mr. IRVING. Yes, I am sure it would.

But the good news is that there is a robust dialogue now between Members and our office in terms of site security surveys. If they want to seek a firm in their district, we always ensure that we approve it to make sure that the firm is reputable and also make sure that we approve their implementations or recommendations.

Many times, firms have made recommendations and we have come in and actually recommended security protocols that save them a lot of money, much more than they would have expended had they just gone out and secured these services privately.

Mr. BISHOP. Yeah, I am not so much talking about the services of a burglar alarm-type; I am looking at physical security, barriers, windows, like, for example, in some of our offices, we have installed bank teller-like windows so that there is some security, some barrier between people that—because they come into an office and you have got a receptionist there, that receptionist is exposed to whatever comes in. And of course, buzzers, security observation, video cameras, security cameras and the like, those kinds of things cost, but they also provide some effectiveness. And of course, rec-

ommendations on lighting, for example, outside lighting, all of those are very helpful.

But when it comes down to putting in the security cameras, when it comes down to altering a wall to have a bank teller-like window that is secure, those things cost some money, and they would add to the cost of the MRA if they had it in the lease.

Mr. IRVING. Yes, absolutely. And that is where I will go back with the structures we have now, best to have as early a warning as possible before a lease renewal or a new lease to try get those built in as an improvement that is funded by the landlord at this point.

Mr. BISHOP. Still, if the landlord funds it, then the landlord is going to amortize that over the 2-year period of the lease, which is going to make the rent go up, which is going to come out of the MRA.

Mr. IRVING. Yes.

Mr. BISHOP. So if there were a fund separate and apart from the MRA, where it was deemed appropriate by the Capitol Police and the Sergeant at Arms, then only in those circumstances and only to the extent that it was felt absolutely necessary you would be fulfilling your responsibility to make sure that the Members were secure in their facilities.

Mr. IRVING. Yes, I agree with that.

Mr. BISHOP. So, Mr. Chairman, I raised that issue, and I continue to raise it on behalf of the Members of our body, because I think we actually represent them in terms of what takes place in this subcommittee. I think we owe them an obligation to make sure that the Sergeant at Arms has everything that he needs in order to discharge that responsibility of security.

Mr. CRENSHAW. Thank you, Mr. Bishop.

I know last year, you had an amendment on the floor that added a million dollars to create a fund like that; it didn't make it through. But that is obviously something we ought to continue to talk about. So thank you for that.

SGT-AT-ARMS OBSERVATIONS OF CAPITOL POLICE

I will just ask very briefly, Mr. Irving, you are new on the job, but you have years and years of law enforcement. I would like to ask you observations you have about the Capitol Police? You have to work with them every day. And we talked in this subcommittee that their mission increases sometimes beyond their control; they have increasing demands that are made on them and with these scarce resources. Do you have any initial thoughts, as you have worked with them, about their mission and how it has grown or how it can be managed in terms of the resources we have available?

Mr. IRVING. As Sergeant at Arms I have spent quite a bit of time with Chief Morse and the Capitol Police reviewing security preparations, not only in the Capitol but also at offsite member events.

I have been very impressed with what I have seen. The security coordination and implementation, flow from sound budgeting practices.

The U.S. Capitol Police budget is very strategic-based, concentrating on threats to the Capitol and Members. They look at spe-

cific countermeasures, to mitigate those threats, and put people and processes in place that target those threats. It is a very lean budget with very efficient use of resources. I have been very impressed with what I have seen. I am impressed with their capability, management, and their implementation of checks and balances to make sure that they utilize resources appropriately and only the resources needed to get the job done.

I think any other changes or any other further reductions would cause a reprioritization of some of the basic functions they do. So I will tell you that I have been very, very impressed with them.

Mr. CRENSHAW. Obviously, they are doing a good job of what they do. Are they being asked to do too much?

Mr. IRVING. I think that they are being asked to do what is expected and what they need to do to keep the Capitol, Members, and visitors safe. I am sure that from time to time, they may get, you know, a request to do some other things above and beyond. And they always strive to do that within their resources, very limited resources. But I will say that what they do is confined to maintaining a safe and secure environment. And we at the Capitol Police Board ensure that they are not stretched beyond that.

But having said that, just to keep the basic mission that they have is certainly tasking their resources at this time.

Mr. CRENSHAW. Thank you.

Mr. Honda.

CONTINUED DOMA DISCUSSION

Mr. HONDA. Thank you, Mr. Chairman.

And let me just make a comment about the invigorating exchange that we had. This is the kind of stuff I have been looking for on the floor and in the subcommittee. So I appreciate it, because I am not a lawyer; I am a teacher. As a teacher, you are just bringing things out to the front that makes more sense. And I think that this helps the general public to understand what goes on also.

And I appreciate the clarification regarding the Legal Advisory Group that gave direction to our General Counsel, that it was not a unanimous vote. I think that clarification is something that can be entered into the record.

[CLERK'S NOTE.—Information provided with Questions for the Record.]

Mr. HONDA. The other—I hope I am not sounding like an attorney, but I guess this is how we do things.

Mr. BISHOP. It is not all bad.

Mr. HONDA. I understand. I am not equipped to be that kind of a person. But not that the person is that bad.

Mr. LATOURETTE. We are people, too, you know.

Mr. HONDA. You are my favorite person, actually.

Mr. CRENSHAW. I used to be a lawyer.

Mr. HONDA. But the other thing I will put into the record, I think it was said that funds were transferred to DOJ.

Mr. HONDA. And I think under the Justice, Commerce, and Science Subcommittee, we did say that resulting from the Defense of Marriage Act decisions, the committee recommendation recognizes that resources to support the defense of DOMA and any asso-

ciated litigation are no longer necessary under this account. So just put that into the record also, that somehow we still pushed it through different arms that we have. And that is okay, I suppose. But the thing that is needed to be done is to bring it to the sunshine so that we all understand what happened and why.

I would like to enter into the record the questions I have that I won't be able to ask because of time.

INSPECTOR GENERAL

Mr. HONDA. But let me close with a question to the Inspector General Grafenstine.

Last year, for the record, you indicated that you operated under the policy direction and under the oversight of House Administration. Unfortunately, your read of policy direction has created a non-existent relationship with this subcommittee, the one who provides resources for your work. And by justifying your budget, I would like to remind you that you are under this subcommittee's oversight. Further this subcommittee could actually use your work to make instrumental changes on how the House does its business.

Since we don't get your reports, can you give us more detail on what you have been up to? For example, how many reports have you issued? How many dollars have you saved with your recommendations? Anything to let us know that we are getting a return on our investment. Also, your testimony states that you provide advice and counsel to joint entities of the House. Can you give us more information on your jurisdiction? And can you audit any legislative branch agency? And I just wanted to make it clear that you know there are limitations to certain positions and responsibilities. And our read on the directions and the position statements is different from yours. So if you have any difference on my comments, I would love to hear that.

Mr. PTASIENSKI. I am Mike Ptasienski, the Deputy Inspector General. Unfortunately, the Inspector General had a personal situation she had to address this morning.

Mr. HONDA. I hope it is not serious.

Mr. PTASIENSKI. She is not here today.

But to answer your question on the number of reports that we have issued over the past year, in the last Congress, we issued 19—or excuse me, last year, we issued 19 reports. We have 23 current audits and advisories that we are working on right now. As far as the question on the joint entity thing, we do occasionally do some work with the Architect of the Capitol to look at the House interests as it relates to activities of the Architect of the Capitol. Again, for all those we get our guidance from the Committee on House Administration. Before we undertake any audit work, we work through the committee on a bipartisan basis to review our work plan and those actions we undertake.

Mr. HONDA. Thank you. And perhaps I could submit a question for the record and get a response.

Mr. PTASIENSKI. Absolutely.

Mr. HONDA. It seems to me that the Inspector General works for this subcommittee, and for her not to respond to the subcommittee would be a misread on her responsibilities. And to take directions

solely from certain groups from the subcommittee, she needs to bring it back to us and ask us for clarification.

I think that that would be responsible and helpful.

Thank you, Mr. Chairman.

Mr. CRENSHAW. I think that message has been received.

Without objection, all the requests that people have made to insert things in the record be made.

Mr. BISHOP. Are we limited in the number of rounds we have today, Mr. Chairman?

Mr. CRENSHAW. Well, we will have time.

If you have more questions, we can stay as long as you would like. But let's go to Mr. LaTourette and then to you.

CONTINUED DOMA DISCUSSION

Mr. LATOURETTE. Thank you, Mr. Chairman.

And Mr. Honda, I want to tell you I enjoyed our exchange very much. And my face hasn't gotten so red for a long time. And I appreciate it.

And, I should tell you I began my career as a public defender. I could never go to my grandmother's house for Thanksgiving because she would always say, how could you defend those murderers? And the fact of the matter is our system of justice, whether it is civil or criminal, everybody is entitled to have the best lawyer that they can have to present their case.

And in condemning the actions of King & Spalding, the New York Times, on April 27 of last year, not sort of a conservative blog, indicated out what we were actually talking about, when Brown v. Board of Education was argued 60 years ago, two of the greatest American lawyers squared off in that case. And that is the way it should be. And segregation, of course, was the law of the land at that time. But Thurgood Marshall, on the side of desegregation, and John Davis for the principle of separate but equal.

Mr. HONDA. Yeah.

Mr. LATOURETTE. And I am sure that there were people in the country that thought that one side or the other was not—that they weren't supportive of one side or the other. But you know what, these things only get sorted out when the judges have the best arguments that the best lawyers can make to them based upon the best evidence.

But I also want to tell you, based upon our exchange, you have changed my mind, and because Mr. Price has indicated that the House is in its rights to hire outside counsel, I think I agree with you that it is patently unfair that we should be paying all this money.

And so, therefore, Mr. Chairman, I would ask you to please talk to Mr. Wolf at your earliest convenience. And when he writes the 2013 CJS appropriations bill, in the account called legal activities, salaries and expenses, general legal activities, that he consider dunning the Department of Justice the amount equal to what House Counsel is going to be required to pay for the defense of this litigation, because they apparently have some extra lawyers sitting over there doing nothing. So thank you for helping me find my way through the forest.

Mr. HONDA. If you don't mind—

Mr. LATOURETTE. Sure.

Mr. HONDA [continuing]. I look forward to that debate.

Mr. LATOURETTE. Thank you very much.

And now I am going to ask one question.

STOCK ACT

I just want to ask you, Ms. Haas, I understood you to say that the STOCK Act, which is on its way to the President's desk, you estimate, and it is not included in your budget request, it is going to take \$4 million to get the mechanics up and running and then a million dollars a year thereafter to maintain it?

Ms. HAAS. That is CBO's estimate. That is a combined estimate for House and Senate.

Mr. LATOURETTE. Okay. I would just ask of you that you sort of keep track of this. As for, the STOCK Act, nobody should engage in insider trading. But you know what, I got to tell you, to me, it is \$5 million in search of a problem. I don't think a lot of Members sit around and do day trading on their computers or any of this other business. And it is a continuing downward slide of self-flagellation.

I would hope that these monthly reports that were filed, you would undertake in the Clerk's Office to sort of document—I think it is going to show it is abhorrent, and nothing is going on. And if that is the case, then the House and the Senate should perhaps reconsider their position. You know, it would be easier if we just gave \$10,000 to every Member of Congress and told them not to day trade, and we would save a million dollars a year. So I hope that you could keep track of this thing.

Again, like so many things, there are already laws on the books. You are not supposed to take insider information, wherever you get it from, and trade. And I would have preferred that we had gone after those who were alleged to have done it, prosecuted them, put them in jail, and all that other stuff, rather than create this monthly reporting that is going to become a hotbed on both sides. Both groups on the left and the right will now file these complaints with the OCE, saying that this guy or that woman is doing this, that, or the other thing. And I don't think, at the end of the day, it is going to look good. But anyway, if you can keep track of that, I would appreciate it.

Ms. HAAS. Absolutely.

Mr. LATOURETTE. Thank you, ma'am.

And thank you, Mr. Chairman.

Mr. CRENSHAW. Thank you.

Mr. Bishop.

DIVERSITY POLICIES

Mr. BISHOP. Thank you very much.

Mr. Chairman, I have a couple of questions that I hope you will indulge me. The first is to all three of the witnesses.

Last year, report language was included in the fiscal year 2012 Leg. Branch Appropriations Act, which encourages legislative branch agencies, including the House, to develop diversity policies, including broadening the recruitment efforts to reach as many qualified candidates as possible. The report language directs the

House Officers to report to the committee within 6 months after enactment of the act on current operations as they relate to diversity, any plans to broaden recruitment efforts, and barriers to recruiting diverse job candidates. So I would like to ask each of you what efforts you have made to date to comply with the report language.

Ms. HAAS. Sure, I am happy to start. We are in the process of completing our report to send to the committee.

The approach that we have taken, one, unfortunately in this particular climate we have not done a whole lot of hiring specifically. In the positions where we have hired, we have taken a much broader approach in how we advertise for those positions. So, in the past, we focused on professional journals and much more focused in the D.C. regional area. Now we are using a lot of Internet services. We are reaching out nationally. And so that has really been probably the key for us when we have advertised for the few positions we have had.

Mr. BISHOP. Results?

Ms. HAAS. The results are good.

Mr. BISHOP. You will include that in your report?

Ms. HAAS. Absolutely.

Mr. STRODEL. Yes. And I will just add a little bit, Mr. Bishop, because it is an area where it is both a tactical and strategic approach. And again, working together with the House Officers, we have a task force within our organizations, a human resources task force group, that develops policies and stays on the front end of employment trends.

But diversity is such a critical component to an organization's effectiveness and what an organization stands for. So the strategic part of it is developing the management structures internally with respect to diversity and inclusion. So we are working from that perspective.

In particular, our organization went through a significant restructuring last year. And within the human resources business unit, we have created a directorate of diversity and inclusion. It is developing, and infusing a dialogue for shared understanding within the organization as to what diversity means, what inclusion means, and how do you go about effecting it? So it is an ongoing process.

Mr. BISHOP. And your report?

Mr. STRODEL. We will include this information.

Mr. IRVING. Yes, I also echo the comments of both Mr. Strodel and Ms. Haas. And also working progressively, if we do some hiring this year, to ensure that we continue to develop a diverse workforce.

Mr. BISHOP. As I recall, the Capitol Police, which falls under your jurisdiction, in their appearance before the committee a few months ago gave extensive information about their progress, as well as the progress of the police officers' discrimination case. So I appreciate that very much. I look forward to the report.

CONSTITUTIONAL AUTHORITY

The second question I wanted to direct to Ms. Strokoff. It has to do with the constitutional authority statements that you have been directed by the House to provide. I think it was at the beginning

of this Congress, January 5, 2011, when we adopted a new rule requiring that each introduced bill or joint resolution be accompanied by a statement of constitutional authority. And of course, the Republican Study Committee has looked at every one of 3,865 constitutional authority statements that were presented by Members of the 112th Congress through January 5, 2012, and concluded that the rule was ignored in nearly all cases. Of course, the report cites so many bills and it goes through and gives an analysis of them.

But given the fact that it is often ignored in terms of our deliberations, can you quantify the work hours and quantify that in terms of dollars and attorneys' time to provide these constitutional statements of authority for the almost 4,000 bills? And how does that utilization of your attorney time take away from the other duties that you are required to perform in your area of responsibility?

Ms. STROKOFF. Mr. Bishop, thank you for your question. The rules change, as you said, went into effect last year.

Mr. BISHOP. Mr. Chairman, is it possible she could get to a microphone?

Mr. CRENSHAW. You can sit in that chair right there. Mr. Calvert is gone.

Ms. STROKOFF. Thank you.

Ms. STROKOFF. Okay. The rule, actually, it is the responsibility of the Member to provide the statement of constitutional authority. What the Office of Legislative Counsel did was provide forms, fillable forms, and with links to—there were memos that the Congressional Research Service provided as to the basis, possible basis for constitutional authority. The Rules Web site stated, and in their briefings, many briefings they said, well, the Office of Legislative Counsel will assist Members by providing a properly formatted constitutional authority statement form. It is the responsibility of the bill sponsor to determine what the authorities they wish to cite, to provide that information to the Legislative Counsel staff. Now, when we are requested to we will provide, you know, advice to individuals who request. But we can't make the determination for them as to what specific clause of the Constitution. That is why we have these resources on our Web site.

And I think, initially, when we were developing the forms and, initially, when Members were introducing bills in the beginning of the Congress, we probably spent a fair amount of time assisting staff people with making these determinations. But as time went on, I guess individual Members became familiar with the clauses of the Constitution and our Web site. So I would say we probably spend a lot less time or fewer requests to provide advice in that regard now.

Mr. BISHOP. Generally, the responses that are put on the form are very vague. They may cite an article without going into any specificity. So I guess what I am really trying to get is the utility of it and if, in fact, there are resources that are being utilized on this particular activity that could better be directed to other more constructive pursuits or not. I would like to get Ms. Strokoff's assessment of whether or not that is the most efficient use of those counsel resources.

Ms. STROKOFF. Well, as I said, I don't think we spend—you know, initially in developing the forms, we spent a fair amount of

time doing it. And we tried to cut down on the amount of time by providing the resources on the Web site. So I think the answer is we still spend the bulk of our time actually just doing the drafting of the legislation. When the bill is about to be introduced, we may get a call from the staff person saying, I have never done a constitutional authority statement before. Can you help me out? Where should I go? And I would probably direct them to our Web site first. And I said if you need any explanation, just let me know, and, you know, I can try to explain some of the clauses.

Mr. BISHOP. So you would say it is de minimis?

Ms. STROKOFF. Yes.

FIRST CALL

Mr. BISHOP. Okay. Mr. Strodel, I don't want to leave you out. Last year, your office laid off 10 employees from First Call. And I understand the budgetary pressures that are facing your office. Can you kind of tell us what the impact has been on Members' ability to perform services on behalf of their constituents? How are the calls responded to now? And has that had any adverse effect on the efficiency that we previously enjoyed, if in fact we did have efficiencies, in terms of the moving and all of the other activities that accompanied the operation of that office?

Mr. STRODEL. Yes, sir, the reductions that you referred to, particularly in First Call, and as I said at the outset, we faced an unprecedented budget situation. So not only are non-personnel affected, but also personnel which I don't think has happened in a long time up here. What we had to do, Mr. Bishop, was strategically look at the organization. If we are going to reduce the budget, not just lop off a limb, but say how can we do something more effectively? How can we deliver services either more effectively or in a way that we can change the service model and absorb these reductions? In First Call, we had office coordinators who were essentially a middle person between the office and the end delivery or service activator within CAO. So, in our review of services, the decision was to change that service model and essentially take out that middle step.

And now calls come in and go directly to where that service is going to be performed or delivered. The data that has come back has showed that response time is faster. There was a break-in period, and some offices had a difficult time; they wanted the person who helped them before. But it has been working. It has been more effective.

Mr. BISHOP. Thank you, Mr. Chairman.

Mr. CRENSHAW. I think it is interesting.

As we talked earlier, there was a reduction of 40 percent in the so-called projects, programs, and activities. And I think that was due to a lot of the line item—looking at every aspect of what they did. And it is amazing, I guess, in one instance, it is amazing that you found that many programs, projects, and activities that you could do without. That makes you wonder why you didn't do that sooner. But I am glad you did. And I think that is part of the process we are going through today, to recognize that we don't have the resources. So we appreciate all that.

Mr. Honda I think has one brief question before we wrap it up.

Mr. HONDA. I just wanted to indicate that the questions I didn't ask, I am going to submit for the record. I made that statement, but to the CAO, transition costs, among other things. With Mr. Irving, just acknowledge that there was a mock evacuation that happened, and perhaps responding in writing what the evacuation time was for the different buildings. And just a comment, I understood that there were officers at each floor directing traffic. And my comment to that would be in the case of emergencies, those officers would not be there until notified there was an incident. So to create a more realistic scenario, you might want to just drop that protocol and just do an emergency evacuation exercise without letting folks know including the officers, so that we could see and evaluate that kind of exercise. I thank you for your time in looking at the issue.

Thank you, Mr. Chairman.

Mr. CRENSHAW. Thank you.

And thank you all for being here today. Thank you for your testimony.

And the subcommittee will stand in recess, subject to the call of the chair.

[The prepared statement of Theresa Grafenstine follows:]

Statement of Theresa M. Grafenstine, Inspector General
Office of Inspector General
U.S. House of Representatives
Washington, DC
March 27, 2012

Before the House Subcommittee on Legislative Branch Appropriations

Chairman Crenshaw, Ranking Member Honda, and Members of the Subcommittee, I am both pleased and honored to appear before you today in my capacity as Inspector General of the U.S. House of Representatives (House). Thank you for this opportunity to highlight the important work of the Office of Inspector General (OIG).

The OIG was established by the U.S. House of Representatives during the 103rd Congress to conduct periodic audits of the financial and administrative functions of the House and of joint entities. Over the past 18 years, the OIG has added value by working closely with the Committee on House Administration and House Officers to improve the operations of the House, to reduce inefficiencies, and to minimize costs. In addition to providing traditional audit and investigative services, the OIG also provides proactive analysis and guidance in the improvement of House operations through its management advisory services.

The OIG also plays a leading role in educating individuals on the use of Lean Six Sigma at the House and other Legislative Branch entities. Lean Six Sigma is a globally recognized methodology for identifying waste and inefficiencies; streamlining, monitoring, and controlling processes; and setting the stage for continual improvement. In 2011, the OIG facilitated the training of 16 non-OIG House staff members who will be able to utilize these new skills to help improve Legislative Branch operations.

In the FY 2012 appropriations language, this subcommittee asked Legislative Branch entities to convert to a zero-based budgeting methodology for FY 2013. The OIG used this opportunity to thoroughly review its programs and historic budget expenditures and to strategically align personnel, contracting, equipment, and administrative budgets to the associated programs within the OIG. Although the OIG has been operating under a self-imposed flat budget since FY 2010, the OIG has proactively reduced its overall budget request by 7 percent for FY 2013. The largest cuts included a 20% reduction in our contract budget, a 36% reduction in supplies and materials, and a 33% reduction in travel-related costs for training. Because of training investments made in our staff and efficiencies gained in automating many of our internal processes, we are able to reduce the OIG budget without adversely impacting our ability to accomplish our core mission and functions.

Last year, this subcommittee asked the House Officers to report back on their operations as they relate to diversity and recruitment. The OIG continues to carry out its Diversity Plan. The OIG plan addresses the benefits of diversity in the workplace, the challenges in developing a diverse workplace, and outlines specific strategies and goals with measurable steps to successfully build a diverse workforce and work environment. The OIG executes proactive recruitment efforts to

solicit qualified candidates from a broad range of racial, cultural, and industrial backgrounds. Consistent with our view that diversity enriches the work environment and our staff, the OIG is participating in the Congressional Internship Program for Individuals with Intellectual Disabilities. The OIG is also establishing a Volunteer Educational Program to provide young people with an opportunity to gain first-hand knowledge and experience in the audit, advisory, and investigative career fields.

Currently, the OIG has 23 ongoing audits, advisories, and investigations in various stages of completion. The OIG staff consists of twenty-four experienced and dedicated professionals, all of whom possess advanced degrees, one or more professional certifications, and extensive public or private sector work experience.

Highlights During the First Session of the 112th Congress

The OIG's objective, value-added reviews have helped to significantly improve House financial management, administrative processes, workplace safety and security, the security of House data, and the information technology infrastructure. During the first session of the 112th Congress, the OIG issued 19 reports and other products that spanned the diverse range of services it offers including financial, performance, and information systems auditing services; management advisory services; and investigative services.

Financial Auditing Services. Financial audits review the effectiveness and efficiency of House financial operations. A major portion of this effort involves the oversight of an independent, external certified public accounting firm's annual audit of the House Financial Statements. The House is in the process of wrapping up the FY 2011 report where the external auditors have found the financial statements were presented fairly in all material respects, in conformity with generally accepted accounting principles. This is the fourteenth consecutive year the external auditors have expressed an unqualified (or "clean") opinion on the House's financial statements. This is especially significant because the House also implemented a new core financial system. Financial system conversions are the leading cause for loss of a clean opinion on financial statements and internal controls over financial reporting. After receiving an adverse opinion on internal controls over financial reporting in the FY 2009 and FY 2010 financial statements, the House will also receive an unqualified opinion on its internal controls over financial reporting in the FY 2011 financial statements. This is the result of a significant effort by the Office of the Chief Administrative Officer (CAO) to implement a comprehensive internal controls program which has considerably improved the processes and controls over financial management of the House.

Performance Auditing Services. Performance audits evaluate the efficiency and effectiveness of the House administrative functions and the adequacy of internal controls over these functions, to include benchmarking these functions against "best business" practices. We performed a variety of performance audits to assist the House in improving the efficiency and effectiveness of House administrative operations. For example, to help ensure the security of House offices' and staff's personally identifiable information, we reviewed the controls over this data at the Sergeant at Arms. Effective controls over personally identifiable information helps ensure this data is protected from disclosure and reduces the likelihood of misuse or abuse. We also accomplished multiple reviews of the CAO's acquisitions management processes to ensure the

House was receiving the goods and services for which it had contracted. Effective acquisition management processes and procedures, including adequate oversight of contractors, are essential to ensure the House receives the best value for the goods and/or services for which it has contracted. We also performed a House-wide review of the controls over contractor background checks to ensure that security and screening policy and procedures that pertain to obtaining contractor services are effective and consistently applied. The use of contractors to perform certain functions often provides substantial benefits; however, there are risks associated with using contractor personnel that have not been subjected to background checks. These risks include, but are not limited to, potential damage of House facilities and records and jeopardizing the health, safety, and welfare of Members and House staff.

Information System Auditing Services. The OIG conducts information systems audits of computer security, operating systems, information systems, network hardware and software, and the information resources management function in the House. These audits assess the confidentiality, integrity, and availability of House information resources and evaluate the adequacy and effectiveness of House policies and procedures related to information systems. For example, we reviewed key controls of Active Directory, a service built into Microsoft Windows that stores information about users, devices, and resources on a network, to ensure that only authorized users can access House systems and resources. We also reviewed the controls over the use of Peer-to-Peer (P2P) software, also known as file-sharing software. Peer-to-Peer software is distributed over the Internet; therefore, there are associated security risks that if not adequately mitigated, could ultimately place House data at risk of unauthorized disclosure, disrupt Member or House operations, or cause embarrassment to the House. This audit evaluated whether the CAO had sufficient controls in place to mitigate risks related to Peer-to-Peer software usage on the House network. We also evaluated risk mitigation strategies for video-conferencing software. Another example includes our House-wide review of the controls over software licensing to evaluate the adequacy and effectiveness of House policies and procedures over software asset management. Management of software licenses is an essential activity to ensure that licenses are purchased, installed, and retired from use in a cost-effective, efficient manner.

Management Advisory Services. In the advisory services area, the OIG continues to assist the House to identify ways to improve the effectiveness and efficiency of House processes and operations. Historically, advisory services have included work in the areas of emerging technology, systems development, business process improvement, and risk management. During the first session of the 112th Congress, examples of our advisory projects included examining the CAO's plans for enhancing House financial systems, enhancing and standardizing record retention practices, improving House payroll operations, and assisting the CAO with their expansion of the House Procurement Card program.

House Financial Systems. Having recently completed its implementation of PeopleSoft, the CAO plans to increase the functionality and capabilities of the new House financial system to better meet the needs of the House community. As the CAO moves forward, the OIG has recommended that the CAO revisit and monitor strategic goals and objectives, continue to strengthen communication between business owners and users, and assess resource utilization when planning to reduce risk and increase the likelihood of success.

Records Retention Practices. The House Officers are independent organizations that store and dispose of records on a routine basis. The goal of a records management program should be to keep records long enough to meet both the needs of the House and the applicable statutory and policy requirements, but not to the extent that they exceed the necessary retention period. The OIG identified a number of best practices and provided the House Officers with a series of recommendations that when implemented will provide greater consistency and improve the efficiency of these programs at the House.

House Payroll and Benefits Operations. The OIG also engaged with the Payroll and Benefits organization in the CAO to identify opportunities to improve the effectiveness and efficiency of payroll and benefits administration for the House. Payroll is the largest portion of the House operating budget. We performed an analysis of payroll and benefits best practices of several external payroll and benefits processing third party administrators, reviewed the current House payroll and benefits functions, and identified several opportunities for improvement in the administration of House payroll that would both increase internal controls and also reduce the risk of incorrect payments.

House Procurement Card Program. As the CAO works to expand the usage of procurement cards at the House, the OIG has been proactively working with the CAO to help ensure policies and procedures are clearly defined, training and communications materials address important requirements needed to effectively manage risks, and the House achieves the maximum possible process improvement benefits through the expanded use of these tools. In addition to meeting with a number of Member offices that were part of the initial pilot, the OIG has continued to provide the CAO with recommendations on process improvements as well as on their training and communications efforts.

Investigative Services. Generally through the result of audit outcomes, advisory activity, or anonymous tips, the OIG, in coordination with the Committee on House Administration, executes investigations into sensitive allegations of fraud, waste, and abuse in the administrative operations of the House. During the first session of this Congress, in addition to responding to anonymous tips and conducting other investigations and inquiries, the OIG also coordinated a fraud awareness educational outreach campaign to protect offices against unscrupulous vendors. The OIG coordinated these efforts with the CAO and the Office of General Counsel to implement controls to protect House offices. As a result of these efforts, there has been a significant decrease in the number of these attempted fraud occurrences by unscrupulous vendors.

Focus for Second Session of the 112th Congress

A number of important challenges face the House during the 112th Congress. The OIG continues to do its part to contribute to a more effective and efficient House support structure by identifying and helping to mitigate significant risks to the House and highlighting opportunities for improving the efficiency of House operations. Some of these include: (1) ensuring sensitive data is protected from disclosure over information systems, mobile computing devices, and virtual server environments; (2) reviewing policies and procedures to assess the financial controls over funds received and receipt of payments due to the House; (3) reviewing policies and procedures to determine their adequacy and effectiveness in the recovery of crucial House

systems following disasters, and the efficiency of security operations and controls; and (4) streamlining administrative support functions and optimizing efficiencies by leveraging best practices in emergency communications, warehousing and storage, zero-based budgeting methodologies, and documenting and sharing best practices in office administration for Member Offices.

Preventing Data Disclosure. As technologies change and efficiencies are gained by consolidation and virtualization, the House needs to be able to identify and mitigate information systems security risks. Mobile computing and virtualized server environments, as well as use of new media applications pose risks to information security and if not implemented with effective controls could result in data disclosure and unauthorized access. The OIG plans to perform several reviews that will evaluate the House's ability to identify and mitigate data disclosure vulnerabilities. In addition, the OIG is wrapping up an advisory effort looking at the data security risks that exist within the operations of individual Member Offices and Committees. The OIG will outline potential strategies that could be leveraged to reduce data disclosure risks.

Review of Financial Controls. The annual independent audit of the House financial statements will be conducted for FY2012's statements during FY2013 to determine whether the financial statements, including accompanying notes, present fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles, the House's assets, liabilities, and net position as of the end of the fiscal year. In addition, the OIG will audit the controls over accounts receivable to determine whether implemented policies and procedures ensure collection of accounts receivable balances. In addition, part of another review will focus on the financial controls over tuition collected for children enrolled at the House Child Care Center.

Adequacy and Effectiveness of Policies and Procedures. Policies and Procedures are the strategic link between an organization's mission and its day-to-day operations. We plan to review the controls over operations of the Sergeant at Arms Security Office to evaluate the effectiveness of their policies and procedures used to safeguard classified information and for obtaining security clearances for House employees. The OIG also plans to evaluate the effectiveness of the CAO's policies and procedures for protecting personally identifiable information to help ensure the security of House offices' and staff's personally identifiable information. To complete the House-wide reviews of the disaster recovery plans, policies, and procedures, the OIG will review the Sergeant at Arms Disaster Recovery Plan to determine whether it is adequate, effective, and will support the prompt recovery of crucial House functions and IT facilities in the event of a major failure or disaster.

Streamlining Administrative Support Functions. The OIG plans to conduct a number of advisory services projects to help the House optimize and gain efficiencies in administrative processes by leveraging best practices or identifying new ways of increasing the effectiveness of House operations. For example, the OIG is in the process of examining the CAO furniture warehousing process to identify opportunities to reduce storage utilization and costs while also optimizing furniture deployment practices at the House.

The OIG will also examine the House Officers' zero-based budgeting methodology to determine if improvements in the approach and tools can be developed to better prepare and guide the

House Officers through the formulation of budgets and spending plans. In addition, the OIG is also working to develop standard cost/benefit models with consistent criteria that will allow House decision-makers to effectively compare proposed projects and programs.

During the second session, the OIG will also conduct a "Member Office Administration Better Practice Study" with the goal of having better practices documented and shared. Member offices are likely employing different tools and processes to administer their financial and human resource functions. Some offices may have developed efficient and effective procedures that, if documented and shared, could help improve the overall House efficiency and effectiveness. Consolidation of better practices for potential use by Member offices could result in better toolsets, more standardized practices, and more efficient and effective processing of administrative tasks.

In the coming year, the OIG will also conduct an advisory review of office emergency communications and coordination. The OIG will review and advise on the education of Office Emergency Coordinators, the dissemination of emergency communication protocols through the coordinators to their offices, the effectiveness of the emergency communications testing process, and the coordination of emergency communication responsibilities across the multiple entities involved.

I believe that the OIG's proactive, value-added audit, advisory, and investigative services will continue to help shield the House from significant financial losses, damage to the House's reputation, and delays and disruption to House financial and administrative operations.

FY 2013 Budget Request

The OIG's FY 2013 budget request calls for total funding of \$4.692 million, a self-imposed decrease of (\$353,000) or 7 percent below the FY 2012 appropriation. This amount includes \$3.371 million in mandatory items associated with current staff; \$1.321 million for non-personnel expenses necessary to fulfill the OIG's primary mission of providing audit, advisory, and investigative services, which includes contract funding for the annual independent audit of the House Financial Statements and specialized subject matter experts to support the wide-range of information security and technology engagements and management advisories handled by our office

Chairman Crenshaw, I wish to thank you, Ranking Member Honda, and the Members of the Subcommittee for this opportunity to present the work of the OIG and its FY 2013 budget request. The OIG looks forward to continuing our role of providing value-added advice and counsel to House Leadership, the Committee on House Administration, House Officers, and joint entities of the House as we focus on issues of strategic importance to the House and its ability to efficiently and effectively conduct its operations in accordance with best business practices. We are proud to be able to serve the People's House in this way. I would be happy to answer any questions you may have.

[The prepared statement of Kerry Kircher follows:]

**Statement of Kerry W. Kircher, General Counsel
Office of General Counsel
U.S. House of Representatives
Before the Legislative Branch Subcommittee
of the Committee on Appropriations
Regarding Fiscal Year 2013 Budget Request of the Office of General Counsel**

Chairman Rogers and Members of the Subcommittee. Thank you for the opportunity to present and explain the fiscal year 2013 (“FY’13”) budget request of the Office of General Counsel (“OGC”). For FY’13, OGC requests \$1,415,000, which represents no increase over the FY ’12 enacted budget per Pub L. No. 112-74. This budget request is comprised of \$1,297,000 for personnel costs and \$118,000 for non-personnel costs.

Functions of the Office

Pursuant to Rule II.8 of the Rules of the House of Representatives (112th Cong.), OGC provides legal advice and assistance to Members, Committees, Officers and employees of the House, without regard to political affiliation, on matters related to their official duties. OGC is a non-partisan, independent entity in the House which reports, on policy matters and matters of institutional interest to the House, to the Speaker and the Bipartisan Legal Advisory Group (consisting of the Majority and Minority leaders, and the Majority and Minority whips). While it is difficult to provide an exhaustive list of all the types of advice and representation OGC provides, it addresses the following matters with some frequency:

- **Judicial Proceedings:** OGC represents Members, Committees, Officers and employees, both as parties and witnesses, in litigation arising from or relating to the performance of their official duties, at both the trial and appellate levels. Among other things, OGC defends civil suits; moves to quash or limit subpoenas; applies to District Courts, on behalf of Committees and Subcommittees, for immunity orders for witnesses; sues, on behalf of Committees and Subcommittees, to enforce congressional subpoenas; and files amicus curiae briefs, on behalf of the House or one or more of its constituent entities, in cases that raise issues of significant institutional interest to the House and its Members.
- **Committee Subpoenas:** OGC provides advice to House Committees and Subcommittees in connection with the preparation, service and enforcement of Committee and Subcommittee subpoenas, including advice and assistance in dealing with recalcitrant witnesses.
- **Requests for Information:** OGC provides advice and representation in connection with responses to informal and formal requests for information (grand jury subpoenas, trial and deposition subpoenas, FOIA requests) from governmental agencies (including the Department of Justice and the FBI), as well as private parties.

- **Privileges:** OGC reviews, evaluates and advises regarding the applicability and waiver of various privileges including, most particularly, the Speech or Debate Clause privilege (U.S. Const. art. I, § 6, cl. 1), but also including executive, Fifth Amendment, attorney-client, and attorney work product privileges.
- **Tort Claims:** OGC reviews and evaluates tort claims for administrative resolution and, where appropriate, refers such claims to the Department of Justice for defense under the Federal Tort Claims Act.
- **Tax Matters:** OGC advises House offices and vendors regarding applicable tax exemptions for official purchases.
- **Constituent Casework:** OGC provides advice to Members and their staffs about the handling of constituent casework, including responding to questions that concern the confidentiality and discoverability of constituent communications and information.
- **Contract Disputes:** OGC assists in resolving major contract disputes involving House Members and entities, and outside vendors.
- **Internal Policies:** In consultation with the Speaker's office and other leadership offices, OGC assists in creating, amending and evaluating internal House policies, rules and regulations.
- **Formal Legal Opinions:** From time to time, OGC issues formal legal opinions on matters of interest to Members, Committees and/or Officers, including whether proposed legislation raises constitutional questions.
- **Other Matters:** OGC provides day-to-day advice on a wide variety of other legal matters including, but not limited to, immigration, intellectual property, debt collection, jury duty, landlord/tenant, and miscellaneous constitutional and separation of powers issues.

Composition of the Office

At present, OGC is comprised of – in addition to the General Counsel – five attorneys, one Office Administrator, and three full-time law clerks. Based on the proposed funding level, OGC expects to be able to provide the same level of effective service that it currently provides.

* * *

I would be happy to respond to any questions the Subcommittee might have. Thank you for your consideration.

[The prepared statement of Sandra Strokoff follows:]

**Statement of Sandra Strokoff, Legislative Counsel
Office of the Legislative Counsel
U.S. House of Representatives**

**Before the House Subcommittee on Legislative Branch
Appropriations
Regarding Fiscal Year 2013 Appropriations**

Mr. Chairman and distinguished Members of the subcommittee, thank you for the opportunity to present to you the fiscal year 2013 appropriation request for the Office of the Legislative Counsel.

I am pleased and honored to appear before you today in my capacity as Legislative Counsel of the House. This is the third time I have provided testimony to this subcommittee since becoming Legislative Counsel in July of 2009. I would like to take this opportunity to express my appreciation to the Members of the subcommittee for their past and continuing support for our office.

The Office of the Legislative Counsel has provided assistance in the preparation of legislation to the House of Representatives for more than 90 years. We would like to continue that tradition and, with the support of this subcommittee, improve our ability to provide this important service to the Members and committees of the House.

Office Budget Request

For fiscal year 2013, I am requesting \$8,814,000 for salaries and expenses of the Office of the Legislative Counsel. This is essentially the same level as that provided in the enacted budgets for fiscal years 2010, 2011, and 2012. This amount includes \$7,894,000 for mandatory items; \$0 for price level changes; \$920,000 for program current services; and an increase of \$6,000 in program level changes from fiscal year 2012.

Our request incorporates a net personnel funding decrease of \$30,000. This is attributable to the retirement of senior attorneys.

Our request incorporates a net nonpersonnel funding increase of \$6,000. This is attributable both to funding needed to provide training to our information technology team and to anticipated increases in the cost of office supplies and materials.

Functions and History of the Office

While Members of the subcommittee are familiar with our office, for the benefit of others who may review this testimony it may be helpful to provide a brief synopsis of our functions and history.

The statutory charter of the Office of the Legislative Counsel charges the office with the duty to advise and assist the House, its committees, and Members in the achievement of a “clear, faithful, and coherent expression of legislative policies”. Our goal, therefore, is to prepare drafts that accurately reflect the legislative objectives of the Member or committee concerned, that are legally sufficient to carry out that policy, and that are as clear and well organized as possible under the circumstances. Although this goal may not be achieved in every case, we always seek, to the extent possible within existing time constraints, to improve the clarity and technical accuracy of the legislative product, avoid drafting errors, reduce unnecessary confusion, and avoid future litigation.

The office is neutral as to issues of legislative policy. Since our inception, we have provided legislative drafting assistance to Members representing all political viewpoints while maintaining confidentiality with each client.

Professional legislative drafting in the House of Representatives began in 1916 as an experiment offered to the House by a professor at Columbia Law School, Middleton Beaman. The experiment was regarded by the House as a success, and Mr. Beaman was appointed Legislative Counsel to the House in 1918 pursuant to an amendment to the Revenue Act of 1918. At first, the office focused primarily on tax legislation. Over the following decades, the work of the office gradually expanded to cover every area of Federal law. A statutory charter for the office was enacted in the Legislative Reorganization Act of 1970. This was followed by an expansion in staff and, over time, a gradual change to the current specialization system within the office. Under that system, each attorney primarily handles legislative drafting requests in specific areas of Federal law and strives to achieve a high level of substantive knowledge and expertise in those areas.

Ancillary Services

In addition to performing our primary function of drafting legislation, we also provide several ancillary services to the House. Most important among these is the preparation of Ramseyers for committees for inclusion in committee reports as required by clause 3(e) of House Rule XIII.

In recent years, the period between final committee action on a reported bill and the filing of the committee report (including the Ramseyer) has become increasingly compressed. Until 2009, we were sometimes unable to complete the Ramseyers in time for the filing of committee reports. This required that the Rules Committee issue a waiver of clause 3(e) of House Rule XIII. Clearly, this was an unsatisfactory situation. We were urged by several committees to find a way to solve this problem, and we requested funding from this subcommittee for that purpose.

We developed unique software to speed up the production of Ramseyers in fiscal years 2007 and 2008 and completed that project in fiscal year 2009. It is now more likely that we will

be able to prepare Ramseysers for almost every reported bill, even for large bills with short deadlines. For example, H.R. 7, the major highway bill (American Energy and Infrastructure Jobs Act of 2012) was introduced on January 31, 2012, and marked up on February 2 with 2 dozen amendments adopted. The reported bill (884 pages long) was filed on February 13. Our staff prepared the 600-page Ramseyer for that bill in the short span of 4 days, an impossible task without the software. This software does not require any additional in-house staff, but it does require support and maintenance on an ongoing basis, the cost of which is included in our budget request for software systems discussed below.

In addition to the Ramseysers, we also provide the committees, the Members of the House, and the Senate Legislative Counsel with electronic compilations of up-to-date versions of the most frequently amended Public Laws. For many years these were printed by the Government Printing Office (GPO) for various House committees in bound volumes. The material contained in these documents provides the building blocks for our Ramseysers. It also represents the only current version of approximately two-thirds of all Federal law, and is, therefore, essential to understanding and drafting all bills amending existing law. Beginning with the current Congress, we began maintaining electronic compilations of virtually all Public Laws for use in the production of Ramseysers and for electronic distribution to meet the needs of the House. Again, specialized software has been developed and implemented in support of this function, the cost of which is included in our budget request for software systems discussed below.

While our staffing is inadequate to enable us to provide assistance to the committees in the preparation of these valuable compilation documents for printing by the Government Printing Office on a continuing basis, we do recognize how vital they are to the committees of jurisdiction, to the Members, and to the entire legislative process. Therefore, we have begun to make compilations of major laws that we prepare in our office available to the entire House on our office's Web site in the form of current Adobe Acrobat PDF files. These documents are essential to the lawmaking process but are not available from any other source inside the Congress or elsewhere. (This does not include the United States Code provisions that are available from the Law Revision Counsel or from copyrighted, outside, nongovernmental sources.)¹

Because of changes in the House Rules requiring the submission of constitutional authority statements accompanying all bills being introduced, the office developed forms for this purpose, accessible on the office's Web site, along with additional information to assist Members and staff in completing the forms. Attorneys in the office have also provided guidance, upon request, to Members and staff regarding appropriate clauses of the Constitution for particular types of legislation. In addition, in the past year we have worked with both the leadership and the Rules Committee in reviewing the implementation of "protocols" relating to the consideration of legislation on the House floor.

¹ A compilation of the extremely complex health care legislation, enacted in 2010, was prepared by attorneys in our office, and was made widely available through joint publication by several committees. This compilation has become a primary resource in the Nation for analysis and proposing revisions of the health care law.

Among the duties we consider ancillary to our primary purpose, we also frequently assist some Members, at their request, in putting their own legislative language in XML format and the proper statutory style but *without analysis, review, or correction by attorneys*. These are situations where the Member concerned, or someone on the Member's staff, requires legislative language so quickly that we cannot process it through our normal system of attorney analysis and review. Unfortunately, this is not an insignificant part of our work, but since we consider it purely a clerical function, we are exploring ways to address these requests. Clerical or paralegal staff may format the requests with little or no attorney supervision. We have also begun to develop forms (thus far for amendments), that are available on our office Web site, to enable staff to compose drafts that attorneys in our office can, upon request, review. These forms are enormously helpful in enabling our office to handle hundreds of requests for amendments to a bill in a short timeframe, such as before floor consideration of the bill.

Given the current size of our staff (48 attorneys) and our current workload, we are not able to provide certain other additional services that are often requested. These include extensive research, preparing side-by-side analyses of House and Senate bills, drafting explanatory language for committee reports, and preparing summaries or analyses of sections or bills. These tasks are more appropriately performed by other offices such as the Congressional Research Service.

In addition, in order to maintain our impartiality, it has always been our policy not to prepare letters or memoranda explaining, defending, promoting, or justifying any particular legislative proposal.

Workload and the Nature of Our Work

We completed 22,322 final drafts in calendar year 2011, as compared to 15,958 in 2010 and 27,129 in 2009. Of that 2011 total, 11,448 final drafts were bills, 9,808 were amendments, and 1,066 were resolutions. As of March 1, 2012, the number of final drafts we have completed so far is 3,230, of which 1,587 are bills, 1,503 are amendments, and 140 are resolutions. For calendar year 2011, the average number of drafts per Member was 29; however, the office generated 161 drafts for a single Member, and generated 50 or more drafts for each of 72 different Members. (These statistics on completed drafts do not cover the number of reported bills for which our office provided Ramseys or the number of compilations of existing law we prepared.)

Putting these statistics in any kind of meaningful perspective is difficult because some drafts are merely simple resolutions or responses to requests to put language developed elsewhere into proper form. On the other hand, a single request could be very extensive, requiring months of intensive work by a team of experienced attorneys. In addition, for each final draft, there may have been multiple earlier versions, each involving a significant investment of time. If all the versions of the 2011 figures are calculated (this is the manner in which the Office of the Senate Legislative Counsel calculates their job totals), then the totals rise to 65,361 versions, 41,779 of which were bills, 20,988 were amendments, and 2,594 were resolutions.

Bills and amendments continue to be lengthy and complex. The annual national defense authorization bill, for example, covers many different areas of the law and so requires the dedication of significant office resources from a number of different attorneys as the bill moves from introduction through final conference agreement between the two Houses of Congress. (The authorization bill for fiscal year 2012 was 1,150 pages.) As bills move through committee and the floor, the office may prepare hundreds of amendments for a single bill, often in a very short timeframe. This was the case most recently with H.R. 7, mentioned above, when hundreds of requests had to be drafted in a matter of days, first for committee markup, and the following week to meet a Rules Committee deadline. Indeed, with a more robust amendment process on the House floor, the volume of requests for floor amendments is expected to remain high.

Another development over the past few years that has substantially increased the office's workload has been the involvement of the office in assisting the Appropriations Committee in the drafting of appropriations bills, which previously had been done entirely by that Committee. The office has created a team of attorneys to assist in this task, although most attorneys in the office become involved with provisions in their respective areas of expertise. Indeed, whereas in the past appropriations bills were on a fairly predictable schedule during a few months each year, we have found that over the past year, because of ongoing unresolved appropriations matters, we have had to devote significant resources to appropriations matters on an ongoing (and not merely seasonal) basis.

We also anticipate continuing to dedicate significant resources to budgetary issues generally. Requests relating to the budgets of Government programs across the spectrum will involve many attorneys in our office.

The pace of the legislative process continues to be rapid. In particular, we face deadline situations in the context of Rules Committee and floor schedules—preparing amendments for Members for submission to the Committee for consideration or to comply with a preprinting requirement for consideration on the House floor. These deadlines, at times, make it impossible for our attorneys to adequately review the legislation or make a serious determination as to its legal effectiveness. Because of the volume of these requests, we may be able only to format amendments and include them in our computer database for GPO retrieval.

In other contexts we receive requests for “formatting” or “rush” jobs. We respond to these requests to the extent we can, but we do give priority to those requests on which we can make a meaningful contribution to the final product. Consequently, as I mentioned above, formatting and rush jobs may often be handled by our clerical or paralegal staff.

Turnaround Time

Members often ask how soon their projects can be “turned around” by our office. There is no single answer to this question. Projects not requiring attorney involvement may be processed more quickly, but the quality of the drafting will reflect the absence of value added by a skilled drafter. With the quick turnaround, there will be no assurance that the language will (1) legally accomplish what its sponsor wants it to do, (2) be referred to the desired committee, (3) be

enforceable, (4) avoid conflicts with existing law, (5) give authority to the correct Federal agency, or (6) avoid litigation and questions from the press that cannot easily be answered.

Even in cases where the Member or committee desires to have the best possible draft prepared, the turnaround time varies. Often it takes twice as long to review, analyze, and rebuild an existing draft prepared by outside groups as it would to draft the bill from scratch because in the former cases, we first need to unearth the policy within language that may not be completely clear, and then start over from there.

Our attorneys specialize, and when a topic is timely and of interest to many Members, the one, two, or three attorneys competent to work on that topic are often inundated with drafting projects. We prioritize our efforts by handling conference drafting requests first, floor amendments second, and committee projects third. Bills for introduction are dealt with only after those priority projects are finished, and they are handled in the order in which we receive them. I realize that Members are disappointed not to have every request they send to us processed immediately, but absent wasteful and unlimited resources, we will never be able to meet that standard.

Personnel

Staffing Levels

Our existing FTE level is 67. We currently have a staff of 65 (48 attorneys, 3 paralegals who maintain our compilations of laws and prepare all the Ramseys for the committees, 1 additional paralegal who performs drafting functions, 3 information technology personnel, and 10 clerical support staff). We plan to hire 2 new attorneys at the end of fiscal year 2012. As is explained in the following paragraphs, our need to continue hiring new attorneys is an urgent one. In addition, the development of new tools (discussed below) to assist the speed and accuracy of drafting and increase transparency of legislation for Members and staff of the House may require an additional in-house information technology expert to more fully develop and maintain these new tools.

Recruitment, Training, and Retention of Attorneys

Recruiting well-qualified attorneys to work in our office is becoming more challenging. The salary levels in private practice remain very high, creating a huge disparity between private-practice salaries and those of Government lawyers, and housing costs in the Washington metropolitan area have also remained high. It is true that while many young lawyers feel that they still cannot afford to work for the Federal Government because of their student loan debts, the House student loan repayment program has been very helpful to us in our recruitment efforts. The level of assistance is now at the same level as elsewhere in the Federal Government (\$10,000 per year with a cap of \$60,000). But the recent Federal budgetary uncertainties, and the

possibilities of indefinite salary freezes and reductions in benefits, may be discouraging the best of the law student pool to consider working in our office.

The complexity of legislation requires years of training new attorneys to become legislative drafters of the high quality to which we always aspire. We have 18 senior attorneys in the office, that is, those who have been with the office for more than 20 years; of these, 8 have been with the office for more than 30 years, and 2 for more than 40 years. In order to plan for the anticipated retirement of so many attorneys in the near future, we feel we need to continue to hire new attorneys both to address the accelerated pace and volume of requests the office receives and to have attorneys who are sufficiently trained in the relevant subject areas when a senior attorney retires.

We are concerned about our continued ability to retain new and particularly mid-level attorneys in the current work environment, particularly given the years we invest in training each new attorney. The ability to provide merit raises for the extraordinary work performed by the attorneys in our office continues to be extremely important in this regard. Another is having sufficient personnel to allow attorneys to work in teams in increasingly complex subject areas. We have found that this approach improves morale and work product, as we have found individuals who must work "solo" in an area that becomes "hot" can (understandably) become overwhelmed by the workload. This is another reason for the need to continue to hire new attorneys.

We are limited in the workspace we have for our attorneys and other staff. In order to accommodate newly hired attorneys, we must find additional space where they can work, while preserving the conference space that is so invaluable for meetings with staff, particularly on major bills, and particularly in the final stages of the legislative process. Our experience has been that face-to-face meetings, with all interested parties in the room, are invaluable in honing the policies on which all drafting is based. We have been able to acquire and adapt additional space in the past two years, and have reconfigured existing space this past year to accommodate our space needs in the near-term. We appreciate the assistance which the leadership and the Architect's office have provided us. Our conference spaces have recently been enhanced through the installation of wall-mounted screens that permit revisions of drafts in a group setting. This feature has been extensively and successfully used in the drafting of legislation, particularly at the conference level with both House and Senate participants.

Managing the Uneven Workload

Our workload fluctuates greatly during each session of Congress. Peak periods are always difficult to manage. We also continue to see many omnibus bills, including requests from individual Members. The complexity of Federal law continues to increase. Our attorneys are always operating under timetables dictated by external events and constraints. Assembling

multifaceted legislation in a thoroughly professional manner and minimizing errors is a growing challenge, even for our most experienced staff.

In order to address the massive workload presented by certain bills, our office has been structured around teams of attorneys. For example, most recently on H.R. 7 (the highway bill discussed above), in addition to the core of the transportation drafting team and other attorneys with expertise in subjects covered by the bill, another 15 or so attorneys volunteered to help with drafting requests and were directly involved in support of the House's effort for both those who supported and opposed the legislation. This auxiliary team significantly improved turnaround time for Members' amendment requests while permitting those with the most expertise to work with the committees and leadership on both sides of the aisle. Our office engaged in a similar effort in the past on the health care legislation and the financial services bill, in the latter case allowing the preparation of hundreds of amendments over one weekend before a Rules Committee deadline. This team approach is crucial to handling large bills; we continue to develop the teamwork approach for appropriations bills. Ultimately, it is our goal to have a team of attorneys working in each major subject area.

In addition, we are continuing our successful program of using attorneys who have retired from our office to return part-time under contract on an as-needed basis. These experienced attorneys are required to have no actual or potential conflicts of interest. They are paid on an hourly basis at the equivalent of the rate of pay that they were earning immediately prior to retirement and assigned to help for a limited period with a special problem or a particularly difficult or large project. This system has also proved to be a very cost-effective way to handle temporary personnel issues such as absences due to family and medical leave and to help manage the peak times of a fluctuating congressional workload during each session. We currently have 7 retired attorneys with whom we have contracts to participate on an as-needed, part-time basis.

Nonpersonnel Expenditures

The major nonpersonnel expenditures for our office are associated with the maintenance and enhancement of our existing software systems and future improvements in our ability to provide assistance to committees.

Software Systems

Existing Systems

Our office currently uses 4 major types of software:

- (1) Customized document management software to inventory and track the progress of requests for drafting assistance (iManage).

(2) Customized software (XMetal) for the composition and modification of bills, amendments, and resolutions in the now-standard Extensible Markup Language (XML) format.

(3) Customized software to show existing law with all current amendments and to produce documents showing the changes in existing law resulting from proposed legislation containing amendments and repeals (Ramseyer software), for use in drafting and preparation of Ramseyers.

(4) Customized software to maintain a current database in XML of frequently amended Federal laws (compilation software).

Keeping our document management software system working and properly integrated with the other software systems used in the office requires the attention of 1 in-house software specialist and approximately \$6,000 in annual maintenance and support of our iManage software.

Our in-house software specialist (sometimes in consultation with House Information Resources) has been able to address most difficulties that continue to arise in the XMetal text composition software designed for us by the Clerk of the House and now in use by many committees. In the past three fiscal years we have contracted with a programmer to develop and refine an additional program to enhance the performance of the XMetal software (conversion of text in another format into the XMetal format).

The third and fourth items on our existing software list (Ramseyer software and compilation maintenance) require ongoing support, training, and occasional minor improvements. These expenses have been included in our committee assistance request.

Additional Systems To Increase Accuracy and Transparency

There are two additional kinds of software that would improve our ability to provide services to the Members and committees. One project, the “Drafter’s Toolbox” (renamed from “Reverse Ramseyer” and the “Existing Law Amendments”), has been in development and testing since October 2010, and is proving to enhance the speed and accuracy of drafting amendments to existing law. By using our existing database of compilations of laws, the program can draft amendments to existing law according to the specifications of the drafter. A particularly exciting “tool” is the “mini-Ramseyer”. Using this feature, the drafter can direct the program to show the impact of a particular amendment to existing law. This is valuable to the drafter to ensure the accuracy of the amendatory instructions, and valuable to Members and staff who want to see the impact of proposed amendments to existing law, without having to wait for a Ramseyer in a reported bill. The Drafter’s Toolbox will not only speed up the process of drafting changes to existing law, it will enhance the accuracy and transparency of the entire legislative process. In addition, it would allow Members and their staff to see, from the time the legislation is first proposed, the changes to existing law made by the legislation.

Another kind of software in development and testing is one that would show the impact of proposed amendments on the underlying bill. Based on our conversations with Members of the

House and their staffs, and on the studies done by the House Administration Committee (Gartner Report on Information Technology Assessment (October 25, 2005)), it appears that having this kind of transparency would be a significant benefit to Members and their staffs. It would enable everyone to quickly see and more easily understand the impact of a highly complex series of amendments when offered in committee (or ultimately on the House floor). The program thus far is able to interface with page and line numbers of a PDF document and link that information with the underlying XML document, although much more work remains to be done.

We anticipate needing \$475,000 in fiscal year 2013 for the Drafter's Toolbox project and for the continued development and initial deployment of the Amendment Impact program. Although a flat-line budget for fiscal year 2013 will likely preclude the availability of all the funds needed for the projects described above, we hope to be able to obligate some surplus funds from fiscal year 2012 for these projects, and then perhaps work on the projects on a more incremental basis, if funding for these projects is limited in fiscal year 2013.

We have provided demonstrations of the programs in development to staff on the Committee on House Administration and the Committee on Rules, as we believe these tools can significantly enhance the transparency initiatives undertaken in the House. Questions regarding whether these types of programs were in development were also raised at the Legislative Data and Transparency Conference held in the Cannon Caucus Room on February 2, 2012, in which I participated on two panels.

We have recently enabled the use of videoconferencing technology, and are exploring the greater use of teleconferencing, in order to provide for greater efficiencies in working on bills in conference, both with the Senate and within our office, including during inclement weather. The use of the large video screen alone proved very useful most recently in drafting portions of the conference report to accompany H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2012, which required the presence of both House and Senate staff in the drafting session.

Educational Programs

The office was fortunate to be able (for the first time) to host, for a period of 6 months (in fiscal year 2010), a legislative drafter for the British Parliament, Mr. Diggory Bailey, who brought with him a wealth of knowledge of the British parliamentary system while learning and drafting legislation in our office. He also spent time with the Senate Office of the Legislative Counsel, the House Parliamentarian's Office, and the Office of the Law Revision Counsel, learning their respective roles in the legislative process, and he visited State legislatures to observe their proceedings.

We were also able to host a legislative drafter from the Republic of Korea, Ms. Sally Ku, from June to August, 2011. Sally also visited State legislatures during her visit, and helped us learn about the legislative drafting process in the Republic of Korea.

The experience of hosting these individuals was as educational for our office as we expect it was for Mr. Bailey and Ms. Ku.

This program has required no additional expenditure of funds from our office's budget, other than indirect support costs such as technical support and office supplies.

The First Parliamentary Counsel of the British Parliament, Mr. Stephen Laws, the head of the office in which Mr. Bailey works as a drafter, has extended an invitation to host an attorney from our office to serve in a role similar to what Mr. Bailey served with us. I have also received invitations from Seongwon Kim, the Director General of the Legislative Counsel Office of the National Assembly of the Republic of Korea, and from Mr. Kristian Knudsen, Director of Legislative Acts of the European Parliament, to host attorneys from our office in their legislative drafting offices.

We feel that a program that allows an office such as ours to share knowledge and experience first-hand with drafters in other venues, whether here in the United States or abroad, is invaluable. It will lead to better understanding of legal systems elsewhere and hopefully better legislation everywhere.

We request, therefore, that funds made available to the Office of the Legislative Counsel be available for educational purposes, including international exchanges such as those described under this heading.

Conclusion

I would like to express my appreciation for the support this subcommittee has given our office. This support has enabled us to develop and maintain the ability to provide quick, efficient, and expert drafting assistance to the Members and committees of the House. We are continuing our efforts to improve our services wherever possible.

This completes my testimony. I will be happy to answer any questions that any Member of the subcommittee may have.

[The prepared statement of Ralph Seep follows:]

STATEMENT OF
RALPH V. SEEP
LAW REVISION COUNSEL OF THE U.S. HOUSE OF REPRESENTATIVES

to the
Subcommittee on Legislative Branch
of the House Committee on Appropriations

Mister Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you to present the budget request of the Office of the Law Revision Counsel for fiscal year 2013. Our Office appreciates the continuing support given to us by the Subcommittee and Congress.

Budget Request

For fiscal year 2013, I am requesting \$3,258,000 for the Office to sustain operations with respect to existing personnel and ongoing technology needs. This amount represents no increase over funding levels in fiscal years 2010, 2011, and 2012. It will allow for continuation of current personnel, routine maintenance and replacement of equipment, and long-term improvement programs. It will provide funding to continue service contracts with former employees and outside contractors for editorial support and technical support of production software programs. These contracts are important for improving the timeliness of the United States Code, enhancing the Code website, and developing a system to produce and publish the Code in XML.

Functions of the Office

The principal functions of the Office of the Law Revision Counsel are specified by chapter 9A of title 2 of the United States Code. They are: (1) to maintain the official version of the Code, and (2) to prepare legislation to enact individual titles of the Code into positive law.

Maintaining the United States Code

The United States Code contains the general and permanent laws of the United States, organized into titles by subject matter. The two primary tasks in maintaining the Code are classifying new laws and updating the text.

Classifying New Laws.-Every law enacted by Congress is read in its entirety by a number of attorneys to determine which provisions should be classified to the Code and where in the Code they should be placed. The Office gives the highest priority to this classification function, and the classification of a law is normally completed by the time it is signed by the President. While

thoroughness and accuracy are the prime concerns, speed is also important so that classifications can be included in printed slip laws and made available to the public as quickly as possible.

Updating the Text.-Updating the text of the Code includes not only integrating new statutory provisions into existing text, but also preparing extensive editorial material enabling users to find, track, and understand the updates. This editorial material includes statutory citations and amendment notes to help track the legislative history, notes to explain such things as effective dates, transfers of functions, and a variety of other matters, tables to indicate the status of statutory provisions and their location in the Code, and an index.

The Office is required to publish, in printed form, a complete new version of the Code once every six years and annual cumulative supplements in intervening years. The Office also publishes the Code on its public website, which has recently undergone an extensive upgrade (see "Website for the United States Code", discussed below).

Improvements in Timeliness

The timely update of a publication with the size and complexity of the Code is a challenging task, the completion of which is heavily dependent on the training and expertise of the staff of the Office. The Office has a staff of 21 dedicated professionals, 15 of whom are attorneys. It takes many years of experience for an employee to become a fully productive Code editor or codification attorney, so the Office places a high priority on retaining existing staff and also seeks to retain the services of retired employees by contracting with them for part-time work. As a result of these priorities and certain editorial policy changes, the Office has been able to improve the timeliness of the Code in recent years while maintaining the very high level of accuracy that is expected and demanded of the official United States Code.

To further improve the timeliness of Code updates, the Office launched a pilot project, called *USCprelim*, during fiscal year 2010. The purpose of *USCprelim* is to provide the public with faster online access to an updated version of the Code. Whereas the annual publication of an edition or supplement of the official printed Code must await the conclusion of a session of Congress, updated titles of the Code are made available much sooner on *USCprelim* as new laws are enacted during a session. The *USCprelim* project began with title 26, Internal Revenue Code, and has been expanded to include all the titles of the Code. It has evolved from a pilot project to an initiative that is given the highest priority. Moreover, in version 2 of the upgraded website, to be released later in fiscal year 2012, the "*prelim*" tag will be removed from the name, thus making what was *USCprelim* the default database that users will access when searching the Code online. This shift provides a major benefit to both Congress and the public at large by facilitating access to current Federal statutory law.

Accordingly, the Office has now added maintenance of a current, easily accessible online Code (along with the online posting of bulk Code data, which can be repurposed by interested users) to its foundational task of maintaining the official print Code. The support of the Committee, the gains made possible through technological advancement, and the efforts of the Office's professional staff have made possible this expansion of the Office's mission.

Positive Law Codification

The second principal function of the Office is to prepare legislation to enact individual titles of the United States Code into positive law as required by 2 U.S.C. 285b. The Code currently consists of 26 positive law titles and 24 non-positive law titles (one title has been omitted). A positive law title is a title that has been enacted into law by Congress in the form of a title of the Code. In contrast, a non-positive law title is an editorial compilation by the Code editors (the Office of the Law Revision Counsel or its predecessors) of various acts separately enacted into law by Congress.

Positive law codification is a complex process. It may take a codification attorney a year or more to prepare a codification bill for introduction. After the bill is introduced by the Chairman of the House Committee on the Judiciary, a formal review and comment period begins. Congressional committees, Government agencies, legal experts, and members of the public are invited to review and comment on the bill. Because of the size and complexity of codification bills, it may take several years of study for reviewers to provide detailed and thoughtful feedback. During these extended comment periods, the codification attorneys work with the committees, agencies, and others to improve the bill in order to achieve the best possible organization and wording of the new title and ensure that no substantive changes are made by the bill.

Once all issues are resolved, a revised bill is prepared by the codification attorneys in the Office. Typically, the revised bill is reported by the Committee on the Judiciary as an amendment in the nature of a substitute, and the bill is passed by the House under suspension of the rules. In the Senate, the bill goes to the Committee on the Judiciary and the process continues until the bill is passed by the Senate, typically by unanimous consent. In most cases, a codification bill must be updated several times for new legislation and reintroduced in several Congresses before finally being enacted. The codification attorneys are involved throughout the process, working with the staffs of House and Senate committees, Government agencies, and others to perfect the bill and move it toward enactment.

Current Projects.—Most recently, title 51 (National and Commercial Space Programs) and title 41 (Public Contracts) were enacted by Public Law 111-314 and Public Law 111-350, respectively. As is normally the case, a followup bill for each new title is being prepared to incorporate recently enacted provisions and to conform cross references in other laws. The Office is also engaged in several other positive law codification projects. A bill to enact subtitles III and IV of title 35 (and redesignate that title as Patents, Trademarks, and Other Intellectual Property) was completed and delivered to the Committee on the Judiciary on February 14, 2011. That bill awaits introduction. A bill to enact title 54 (National Park System), was introduced as H.R. 1950 on May 23, 2011. A bill to amend title 10 (Armed Forces) by reorganizing certain provisions as a new subtitle F (Medical and Dental Care) is being prepared. A bill to update and make technical amendments to title 36 (Patriotic and National Observances, Ceremonies, and Organizations) is being prepared. Additionally, bills are being prepared to enact new positive law titles: title 24 (Public Health), title 52 (Voting and Elections), title 53 (Small Business), title 55 (Environment), and title 56 (Wildlife).

Evolving Production Methods.—The production methods based on MicroComp currently used by the Office to create positive law codification bills (and accompanying reports and other materials) are becoming outdated. We anticipate transition to an XML-in/out production system that will promote greater transparency in our work, while simultaneously providing opportunities to improve efficiency.

The other legislative drafting offices of Congress - the House Office of the Legislative Counsel and the Senate Office of the Legislative Counsel - are drafting bills in XML using two different customized versions of XMetaL, a commercial XML editing application. It may be feasible to adopt and adapt one of these versions of XMetaL for use in positive law codification. However, many of the essential tasks involved in positive law codification are quite different than the tasks involved in initial bill drafting. Different functionality is required. Ultimately, contracting for development of new customized software may be a better and more cost effective solution.

Mapping out a wise pathway forward is challenging. There are a multitude of technological options available, and the range of options is constantly evolving and growing. The Office is seeking an appropriate expert to serve as a consultant, helping the attorneys to better understand and evaluate technical options, and assisting the technical staff to better understand drafting requirements and desired innovations.

XML Development

The budget request also includes an amount to continue the long term effort to convert our editorial production system, which is now based on the processing of data in GPO locator code format, to a system based on the processing of XML data. The first stages of that effort, which concluded in 2010, included development of a DTD for the United States Code and a program to convert Code data to XML. In addition, the Office developed a new tool to begin using the XML version of enrolled bills in processing classifications. During fiscal year 2012, the Office posted on its website a sample version of most titles of the Code in XML.

Subsequent phases of XML development will include programming support for XML processing and rendering of such complex data as mathematical formulae and tables, a system to enable the drafting of codification bills in XML, and tools to facilitate the editorial production of the Code in XML as its native format.

Website for the United States Code

The budget request includes an amount for continuing maintenance and development of the website. During fiscal year 2010, the Office began a project to upgrade the search engine for the United States Code database and the user interface of the Office's website. Version 1 of the upgraded website was released during fiscal year 2011. Improvements in version 1 include a redesigned interface, new browse functionality, improved navigation and search capability, a new search engine to access Code data in XHTML format, and new explanatory material about the Code and the website. XHTML was also added to the available formats for bulk data downloads. The new version of the website has been well received by the public.

Version 2, to be released later in fiscal year 2012, will provide additional enhancements, including full browse and search capability for the most current online version of the Code as well as prior versions, and hyperlinking to cited sections of the Code, public laws, and individual pages of the United States Statutes at Large. Future enhancements will include further refinements to the search capability, such as spell checking, and inclusion of additional features of the in-house developed tool, Cite Checker. Services of the contractor will be required to assist in maintaining the site for the initial years of its existence.

Conclusion

Thank you for giving me the opportunity to present the fiscal year 2013 budget request of the Office of the Law Revision Counsel and for the Subcommittee's support for the Office. I will be pleased to respond to any questions that you may have.

[Questions submitted for the record by Chairman Crenshaw follow:]

**Committee on Appropriations
Legislative Branch Subcommittee Hearing for the House
March 27, 2012**

Questions for the Record - Chief Administrative Officer

- 1. QUESTION: Mr. Strodel, one of our priorities has been to find savings for the House as a whole. Please highlight your efforts for the subcommittee.**

RESPONSE: In early 2011, when we knew substantial budget reductions were likely for FY12, we evaluated our operations. Through the evaluation process, we identified the most essential CAO services required by the House community: Information technology and security; finance, budget and payments; acquisition of goods and services; and management of furnishings and logistics. We then refocused our resources according to these priorities. These efforts, combined with FY13 Zero Based Budget planning, have helped the CAO reduce our overall budget since FY11, eliminate service duplication, and streamline processes for more timely responses to Member and staff requests.

Our Acquisitions Management office negotiated a new House mail contract that will yield \$5,000,000 in annual savings and expanded digital mail capability. We have reduced authorized positions by 35, and frozen 38 additional positions, trimming our baseline personnel budget by \$2,500,000. We have also reduced contractor support costs and discontinued initiatives that were provided by other Legislative Branch agencies, saving the House \$1,500,000. Additionally, with CHA approval, we cancelled the Factiva news service subscription saving \$1,000,000, and negotiated an enterprise-wide subscription for all National Journal publications, saving \$583,000 of Members' Representational Allowance (MRA) expenses. Finally, after reviewing the FEDLINK Blanket Ordering Agreements contract, we negotiated a CQ - Roll Call pricing structure 25 percent below the FEDLINK pricing.

- 2. QUESTION: You were requested to implement a Zero-Based Budgeting model for your FY 2013 formulation. What did you learn from this effort?**

RESPONSE: I would like to thank the Committee for initiating the Zero-Based Budgeting effort. Zero-Based Budgeting requires that all expenses in a fiscal year be justified from a "zero" base. This process has allowed the CAO to focus on our core mission and make strategic and critical decisions on services and investments within expected budget levels. The CAO met our budget reduction goals through internal realignment of funds, which allowed for improvements in areas such as internal controls, information security, digital mail, and the PeopleSoft financial system. As a result, the CAO FY13 budget request remains flat without jeopardizing current services provided to the House community.

- 3. QUESTION: What new services have been provided to the Member Offices in FY 2012?**

RESPONSE: At the end of FY 2011, we expanded the virtual storage environment (Storage Area Network-SAN), known as the "House Cloud." The House Cloud is a secure and cost-effective alternative for storing and managing data currently utilized by 334 Member offices. Additionally, the CAO has improved the availability of video teleconferencing through the utilization of off-the-shelf, low cost technologies such as SKYPE, ooVoo, and VSee.

The House purchase card is now available to all Member and Committee offices. House staff can use the purchase card to buy official goods and services, which provides an improvement over the current practice of using personal credit cards and then seeking reimbursement or submitting vouchers for vendor payment prior to delivery. The purchase card is valid for in-store, internet, and phone transactions. It can be used to cover one-time purchases, such as office supplies or town hall meeting space rentals, and recurring charges, such as utilities and subscriptions.

The CAO is developing an electronic voucher (E-Voucher) and digital document management solution that will work seamlessly with our PeopleSoft financial system. This new solution will make managing accounts payable easier for all House offices, reducing administrative costs and increasing efficiency within the CAO Office of Financial Counseling.

The CAO has continued expanding the Remedy Work Ticket Tracking System. Current features include email notifications for work tickets, tracking leases and furniture requests. Future improvements include self-service Franking requests (slated to deploy in May 2012); automated scanning, tracking, and updating of asset records (slated to deploy June 2012); and self-service furniture catalogue requests (pilot slated to deploy fall 2012).

With the recent upgrade to the Lawson payroll system, the CAO has developed an electronic earning statement option. House staff will be able to elect this delivery method through MyPaylinks' Employee Self-Service later this spring.

4. QUESTION: What are the results of the FY 2011 financial statement audit?

RESPONSE: The House has received a clean audit opinion on its Annual Financial Statements audit for the fourteenth consecutive year. During the FY11 audit period, the CAO fully implemented an internal controls program that helped us successfully remediate two material weaknesses. Yearly maintenance and testing of the internal controls program will ensure that adequate controls continue to govern financial reporting and information technology processes.

Additionally, FY11 was the first year after conversion to the new PeopleSoft enterprise financial system. This system has important components that helped remediate audit findings in system processes. This has been a tremendous accomplishment for the CAO team who worked hard to ensure the successful implementation and conversion that was critical to ensure a clean audit opinion. Our processes continue to evolve and improve as we learn more about how the new financial system can improve our processes for audit compliance.

5. QUESTION: What technology related investments has the CAO made for the House?

RESPONSE: During FY11, the CAO made significant investments in its voice and data networks. The CAO spent \$14,900,000 at the end of FY11 to purchase enterprise network and storage infrastructure, and virtualization licenses. These investments directly save Members money by enabling them to transfer file storage and backup efforts to the CAO's resilient, secure environment in lieu of paying for and maintaining servers in individual offices.

More than 75 percent of Members have transferred their data to the House Cloud. The CAO is now also inviting committees to take advantage of this infrastructure (the Rules Committee and the Committee on House Administration are early adopters).

Adequate storage is the backbone for many of the CAO services offered to Member and Committees, e.g. e-mail, digital mail, House Cloud and information security services. Virtualization gives the CAO the additional ability to consolidate the workload of many servers, and provide secure, isolated sandboxes for running applications, storing data, hosting websites, and supporting vendor applications in a secure, cost-effective manner.

6. QUESTION: What is the status of other technology efforts to improve financial and human resource systems?

RESPONSE: We adopted the PeopleSoft financial system at the beginning of FY11 and spent the year implementing and refining the system. So far, we have provided PeopleSoft inquiry access to 114 Member, Committee and Leadership offices.

Technology improvements planned for FY12 through FY13 include:

- a. Electronic Voucher processing for House offices to create, approve, and track purchase requests and payment vouchers.
- b. Improved contract management capabilities for Acquisitions Management to craft, approve, and track solicitations and complex contracts.
- c. Improved budgeting and planning capabilities that will permit offices to use purchasing and payment transaction data to make budget projections and provide real time budget management.
- d. Improved PeopleSoft functionality with the upgrade to the next software version (PeopleSoft, version 9.1). The new version improves financial reconciliation, provides enhanced levels of data security and controls, and enriches the user experience with an improved web interface for software access and navigation. The upgrade is required since the vendor ends support for the current version in October 2013.

In FY12, we completed major lifecycle and hardware upgrades to the Lawson application software that supports our Human Resources (HR), Personnel, and Payroll and Benefits transactions. Improvements include:

- a. Server and application redundancy to leverage virtualization technology with an anticipated 75 percent reduction in application down-time for system patching and maintenance.
- b. Opportunities to reduce paper and postage costs by promoting the Electronic Earning Statement option in MyPayLinks' Employee Self-Service.
- c. New browser options to make the application easier to access from various software media.

Future functionality for all House offices in FY12 and FY13 includes Smart Notification for personnel benefits milestones, and expanded Self-Service capabilities which will allow offices to view and optionally update their employment information. Additional functions to assist the CAO internally will also be developed, such as leave tracking, training administration and human resources talent acquisition.

Legislative Branch Appropriations
Questions – Office of the Clerk
March 27, 2012

1. The House has made increasing the transparency of the legislative process a priority. You play a critical role in meeting this goal. What is the Office of the Clerk doing to further this objective? And, what impact do these efforts have on your operation and budget needs?

We are excited to be part of the effort to make legislative information available in an open format that is both accurate and timely. I would highlight three transparency initiatives undertaken by the Clerk's Office as examples of those efforts. First, we have taken the lead in developing the new docs.house.gov website, which provides access to House documents in open data formats. In January, we launched the first phase of this project, in conjunction with the Office of the Majority Leader and the Committee on Rules, to make all measures scheduled for floor consideration available online in XML format. We are now working on the second phase of that project. Working with all House committees, we will be expanding the website to provide one-stop shopping for designated committee documents as well. This project is set to launch at the end of this year.

We have also continued to make upgrades to HouseLive, which webcasts House floor proceedings. We recently added a clipping tool and live streaming capabilities for mobile devices. We are working on processes to improve speaker identification and an embeddable player that will allow member offices to carry House proceedings on their website if they choose to do so.

Finally, the House floor proceedings page on the Clerk's website was updated for better usability and we are planning for an entire re-work of our website in the near future focused on ease of use.

These are just a few examples of our ongoing efforts to improve transparency. To make continued progress we will require additional funding that is focused on hardware and software upgrades as well as extensive staff efforts to respond to these demands. We currently have a limited number of staff within the Office of Legislative Computer Systems working on these projects and we may need to seek additional outside assistance to meet certain deadlines. It is my expectation that we will need to seek additional overall funding in the future to meet the growing demand.

2. A version of the STOCK Act has passed both the House and the Senate. Should a final version become law, how will that affect the Office of the Clerk?

It is clear that the STOCK Act will have a significant impact on our operation and budget. Working with the Committee on Ethics we will need to re-design forms for Financial Disclosure, Filing Extensions, and Periodic Transactions Disclosures.

To meet both short term and long term requirements, the Office of the Clerk will need to expend considerable resources including labor, hardware and software to meet the proposed timetables. The Congressional Budget Office estimates it will cost the House and Senate \$4 million to develop the electronic filing and disclosure system required by the bill and \$1 million dollars per year to maintain. The House, of course, will have a far larger filing community to accommodate and support than the Senate.

3. During consideration of last year's Legislative Branch Appropriations bill, the House adopted two amendments restricting the delivery of the *Congressional Record* and automatic distribution of bills and resolutions. How has your office adjusted to this change and what impact have you seen?

The transition has been very smooth. Clear communication went to member offices making them aware of the change and clarifying how this information would continue to be made available.

Previously, three copies of bills or resolutions were automatically sent to sponsors and co-sponsors of a measure. Since the adoption of the Paulson amendment, we have not received any requests for bills or resolutions by sponsors or co-sponsors. The House Document Room has copies available should a member need copies; we can also re-produce copies on demand. As you know this information is also available online and can be printed in a member's office if desired.

Additionally, *Congressional Records* are no longer delivered to member offices. However the Legislative Resource Center does have extra copies of the *Record* available if needed. We slightly increased our reserve of *Congressional Records* during this transition time but we have seen only a small uptick in requests.

4. We continue to face difficult budgetary challenges. What has your office done to help control costs within your organization?

There are several areas where we have looked to create savings. On the personnel side we have left several vacancies unfilled. We have restricted travel and reduced overtime expenses. Subscriptions have been decreased or combined to provide overall savings and we now require three quotes for all supply purchases to obtain the best price. We have reduced overall printing within our organization. For the first time last year we distributed member's Legislative Activity Guides (LAGs) electronically.

We combined the Office of the House Historian and the historical functions of the Office of Arts and Archives to better serve the House and the public at large providing an overall savings to the House.

We have taken the first steps to further automate several operations. The House telephone book and lobby disclosure filings are moving to web-based systems. This will make information more transparent, more accurate and reduce overall labor costs.

With assistance from the CAO's procurement office, we negotiated a reduction in costs for the final year of our closed captioning contract.

In January of this year we made ProQuest, an online reference database available House-wide. This has proven to be very helpful to member offices, committees and support organizations and should decrease subscription services for several of these entities.

We continue to look for all opportunities to cut costs and be wise stewards of taxpayer dollars.

Questions for Sergeant at Arms for Legislative Branch Appropriations Hearing

- How is the Law Enforcement Coordinator (LEC) Program progressing? What are your plans for the Program in the future?

The LEC program provides for Member staff at each district office to coordinate with the U.S. Capitol Police, State and Local Law Enforcement on security issues related to their Member and staff district activities. This program has been a resounding success, well supported by the Members, their staff, and the law enforcement community. We have over 880 LECs. As needed, we send updates and security-related guidance to LECs. We have developed interim training materials for the LECs and are developing an extensive and comprehensive training program for all LECs. We plan to implement this web-based training within the next several months.

- How is the Office Emergency Coordinator (OEC) Program progressing, and what are the challenges with the OEC program?

The OEC program serves as the focal point for emergency preparedness at the office level. We have over 1,100 Office Emergency Coordinators representing Leadership, Members, Committees, House Officer and other House support organizations. Because of the high staff turnover in the House, it is a constant challenge to keep an up-to-date OEC community. We provide training and constant outreach to all OECs in supporting their Office's emergency planning. The House community should be proud of this program and the efforts of these key staff.

- What is your biggest concern with emergency planning?

My biggest concern is that we have a tendency of letting our guard down in between events which serve as reminders of the importance of emergency planning. There is a tendency in emergency and security planning to cycle into complacency. As time passes it is easy to forget that there are those who aim to harm this Institution. I will do my best to ensure that complacency does not set in with my staff and the programs I oversee which entail emergency planning. I look forward to the continued help and support of all Members and their staff to ensure we maintain our vigilance and readiness.

- How will the upcoming transition to the New Congress impact your budget and operations?

The upcoming transition impacts my office's budget and operations in a number of ways. One area which impacts our budget and operations is the purchase of supplies and materials for and the production of new staff ID's. We process approximately 17,000 ID's within the first four months of a new Congress. In order to do this expeditiously and in a cost effective manner, we plan to explore the possibility of contracted services to assist with the initial processing of identification badges. With the onset of the new Congress we distribute new Member pins, license plates, and staff parking permits. Historically, as a result of these activities, our office has incurred overtime expenses during the first few months of each new Congress.

From a security standpoint, my office must do everything possible to ensure that incoming Members understand the security measures in place around campus. As a major component of Member and staff education, the Emergency Management staff contact every office individually to ensure they have an Emergency Action Plan and have designated an Office Emergency Coordinator. Additionally, we offer numerous training opportunities in the area of emergency management and preparedness, such as training on the use of emergency equipment.

- What do you see as possible improvements to District Office security?

Currently, a Member can request that a security survey be conducted of his or her district office space which will identify any existing security needs. The U.S. Capitol Police will review the survey and any recommended equipment or modifications to ensure they meet the security needs of the office. The Member may then implement the recommendations at his or her discretion through a vendor of his or her choosing.

My office also has available on our website the *Congressional District Office Security Guideline* that cover such areas as access control, intrusion detection, mail handling, recommendations on best security practices and procedures.

My office has been working with the U.S. Capitol Police and the Office of the Chief Administrative Officer to explore various methods to improve district office security. Some of the options under consideration include lease provisions dealing specifically with office security measures, up to date training for district office staff, mail handling options, effective security options and specific recommendations for the location of district offices such as in buildings that maintain security on the premises. We will continue to coordinate with the U.S. Capitol Police and the CAO's office to further explore security options.

- How has the integration of OEM into your office enhanced or hindered continuity efforts among the House Officers?

The integration of OEM into the Sergeant at Arms office has enhanced our continuity efforts. Our progress on continuity programs for the House of Representatives continues to move forward. Furthermore, the continuity coordination among the Sergeant at Arms office and the other House Officers has been outstanding. My staff and I have been working very closely with Dan Strodel and Karen Haas (and their staff), as many areas of continuity directly affect their programs.

- As a new set of eyes on campus what are your observations in your first few months?

As a new set of eyes, I must say that I have been very impressed with what I've seen so far. I see robust threat mitigation countermeasures and strategy in place by the U.S. Capitol Police, which, in my view, are reflective of a careful balance between the esthetical considerations of keeping the Congressional environment open to guests and visitors (and the Capitol as the "People's House"), while bearing in mind the importance of those critical security enhancements necessary to keep Members, staff and visitors safe in today's threat environment.

Having said this, we must also be mindful of emerging threats as the threat environment is constantly changing. We must never let our guard down, and I firmly believe that we should always be reviewing and developing our countermeasures, in the most cost-effective means possible, to mitigate those new and emerging threats. However, as I've said, I am very impressed with what I've seen and I am very proud to be working alongside the men and women of the U.S. Capitol Police.

Mr. Irving, I understand the increasing demands on the Capitol Police's mission. But, we are also once again facing scarce resources. With your significant law enforcement background it would be helpful if you would share with us your observations on their budget.

As Sergeant at Arms I have spent quite a bit of time with Chief Morse and the Capitol Police reviewing security preparations, not only in the Capitol but also at off-site Member events. I have been very impressed with what I have seen. The security coordination and implementation flow from sound budgeting practices.

The U.S. Capitol Police budget is very strategic-based, concentrating on threats to the Capitol and Members. They look at specific countermeasures to mitigate those threats and put people and processes in place that target those threats. It is a very lean budget with very efficient use of resources. I have been very impressed with what I have seen. I am impressed with their capability, management, and their implementation of checks and balances to make sure that they utilize resources appropriately and only the resources needed to get the job done. I think that any other changes or further reductions would cause a reprioritization of some of the basic functions they do.

[Questions submitted for the record by Ranking Member Honda follow:]

1. If there is a widespread event in the National Capitol Region, how will the House communicate the details of the event to those waiting for instructions on what to do? We have seen that during potential snow events in the National Capitol Region that having everyone go home at once may not be wisest strategy.

Once a threat or event requiring life safety protective actions is identified and the appropriate actions are determined, notifications are made by the USCP to the Capitol Complex. These notifications are considered critical to ensuring the safety of House Members, employees, and the public/visitors that may be affected by the event. The notification messages will specify any protective actions that should be taken. As such, these notifications will be sent as quickly as possible to Members, staff, and visitors. Life safety notification tools include the fire alarm system, public address system, wireless emergency annunciator system, e-mail and blackberry messages, and cell or office phones. Additional tools that will be operational this year include desktop computer notifications and House television alerts. The HSAA also maintains an emergency information recorded line that is updated during emergency events. Staff can reach this recorded line by calling 202-226-6661.

As noted in the question, for certain scenarios having everyone go home at once may not be the wisest strategy. Each event may be handled differently. For example, using the snowstorm shutdown scenario, the evacuation decisions for a snowstorm at night may be different from the decisions for a snowstorm in the middle of the workday. For the Executive Branch, OPM has implemented three new announcements to its emergency tool kit which includes: staggered early departure with final departure time, immediate departure, and shelter-in-place. Certainly the House will consider what is being done by the Executive Branch and District of Columbia when making shutdown decisions and notifications. Each employing authority, however, makes decisions for releasing employees during events that do not impact life-safety.

2. Also what is the plan to communicate with visitors that will have no access to internal House emails? How do we ensure that they get proper notification of events?

Public/visitors that may be affected by a threat or event requiring life safety protective actions will receive life safety notifications made by the USCP to the Capitol Complex primarily through the fire alarm system and public address system. In addition, USCP officers and Visitor Services tour guides will assist visitors during an emergency event. Lastly, all staff that attend the Capitol Tour Training receive specific information on safety and security including the tour route emergency evacuation exits. In this training, staff are directed to assist all visitors within the Capitol Complex whether they are on a tour, in offices, or in our public spaces.

QUESTION

Does the Inspector General believe that additional statutory authority is needed in order for the Committee on Appropriations to direct it to conduct certain work? Also would authority be needed, in the opinion of the Inspector General, for the Committee on Appropriations to receive current work products of the Inspector General?

RESPONSE

The Inspector General believes a change in House Rules would be needed for the Office of Inspector General (OIG) to have the authority to directly distribute reports to or to take direction from a person or body not currently cited in House Rule II. However, the Inspector General would like to support the needs of the broader House community and believes this can be done while also staying within the parameters of the language currently in House Rule II.

Clause 6 of House Rule II establishes the Office of Inspector General (OIG) and defines the authority, duties, and responsibilities of the Office. Pursuant to the rule, following the appointment by the Speaker and joint House leadership, the Inspector General serves at the policy direction and under the oversight of the Committee on House Administration to perform audits, management advisories, and investigations of the House and its joint entities. Accordingly, all work conducted by the OIG is done at the bi-partisan direction and approval of the Committee on House Administration. Although the OIG has undertaken audits or other work at the suggestion of Members and other committees, these requests historically have been coordinated through the Committee on House Administration. This allows the OIG to provide additional services to the House while remaining in compliance with House Rule II.

House Rule II also explicitly states that the OIG “*shall only* inform officers and officials subject to an audit of the results and to simultaneously submit to the Speaker, the Majority Leader, the Minority Leader, and the chair and ranking member of the Committee on House Administration a report of each audit conducted.” Where the IG finds evidence of possible violations of House rules or applicable state or federal law related to the performance of official duties, House Rule II requires the IG to provide the evidence also to the House Ethics Committee. For this reason, the distribution of audit reports has been limited to just the parties explicitly named under the House Rule. The Inspector General is certainly willing to provide appropriate information to the Appropriations committee, as well as to other House committees (including OIG audit reports and other products), with the bi-partisan approval of the Committee on House Administration to ensure that the OIG remains in compliance with House Rule II.

Honorable Mr. Honda Questions for the Record

Topic: Defense of Marriage Act (DOMA)

House Officer: Office of the Chief Administrative Officer (CAO)

Question: To date, how many hours has the law firm hired to represent the Bipartisan Legal Advisory Group in litigation of the Defense of Marriage Act billed the Office of General Counsel/House of Representatives?

Per the Office of the General Counsel, to date the total billable hours executed regarding DOMA related activity is 1,659.25 (please reference the subsequent table for detailed information).

DOMA Related Billable Hours of Outside Legal Consulting Services		
	Lawyer Hours Billed	Non-Lawyer Hours Billed
April 25-May 31, 2011	269.25	42.75
June 1-July 31, 2011	576.25	322.00
Aug. 1-September 30, 2011	345.75	103.25
DOMA Related Billable Hours Grandtotal	1191.25	468.00

Question: To date, how much has been paid to the law firm hired to represent the Bipartisan Legal Advisory Group in litigation of the Defense of Marriage Act?

To date, \$595,977.99 has been expended for DOMA related activity (please reference the subsequent table for additional information).

DOMA Related YTD Expenditures							
Vendor	Tran Date	Amount	Services Rendered	Service Dates	Outstanding Payment Information		
BANCROFT ASSOCIATES PLLC	9/2/2011	\$ 116,000.00	Legal Services	April - May 2011	Short Paid - Invoice Original Total Submitted \$31,491	Payment shortage over price dispute. General Counsel attempting to negotiate that the vendor lessen fee.	The General Counsel will make a final payment by next week.
BANCROFT ASSOCIATES PLLC	9/2/2011	\$ 284,000.00	Legal Services	June-July 2011	Short Paid - Invoice Original Total Submitted \$74,736.58	Payment shortage over price dispute. General Counsel attempting to negotiate that the vendor lessen fee.	The General Counsel will make a final payment by next week.
BANCROFT ASSOCIATES PLLC	3/20/2012	\$ 195,977.99	Legal Services	August - September 2011	\$106,227.68 is the Outstanding Balance to be paid for April though July		
Grand Total		\$595,977.99					

DOMA Related Activity

Descriptions:	Bills	Monthly Average	Lawyer Hrs. Billed	Non-Lawyer Hrs. Billed	Payments	Voucher Date	Balance Unpaid	Reprogrammings
Executed in FY 2011								
April 25-May 31	\$147,491.00	\$122,909.17	269.25	42.75	\$116,000.00	9/1/2011	\$31,491.00	
June 1-July 31	\$358,736.58	\$179,368.29	576.25	322	\$284,000.00	9/1/2011	\$74,736.58	
August 1-September 30	\$195,977.99	\$97,989.00	345.75	103.25	\$195,977.99	3/19/2012		
July 29, 2011								\$292,000
September 8, 2011								\$450,000
Total FY 2011	\$702,205.57	\$135,039.53	1191.25	468	\$595,977.99		\$106,227.58	\$742,000.00
Executed in FY 2012								
Oct. 1-Jan. 31	\$246,157.38	\$61,539.35	449	74.25			\$246,157.38	
Total FY 2012	\$246,157.38	\$61,539.35	449	74.25			\$246,157.38	
TOTALS	\$948,362.95	\$103,082.93	1640.25	542.25	\$595,977.99		\$352,384.96	\$742,000.00
Submission Date	April 18, 2012							

[Office of Compliance prepared statement for the record from Ms. Chrisler follows:]

WRITTEN STATEMENT
TAMARA E. CHRISLER, EXECUTIVE DIRECTOR
OFFICE OF COMPLIANCE

HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON THE LEGISLATIVE BRANCH

March 8, 2012

Mr. Chairman, Congressman Honda, and distinguished Members of the Subcommittee, although the Office of Compliance (“OOC”) was not granted a hearing before the Subcommittee, I am submitting this written statement for your consideration as you review the OOC’s appropriations request for FY2013. In support of that request, please allow me to share a little about the work of the Office of Compliance and the value we add to the Congressional community.

HISTORY OF THE CAA AND THE OOC

The mission of the Office of Compliance is simple: we work with Congress to ensure a fair and safe workplace for Members, their staff, and their constituents. Congress saw fit in 1995 to apply workplace laws to the Legislative Branch, and the Congressional workplace is a better environment because of that decision.

Before Congress enacted the Congressional Accountability Act (“CAA”), there were certain administrative procedures in place for employees to contest allegations of workplace discrimination, but there were no laws protecting employees from discrimination. The majority of staff with allegations of discrimination either remained silent, let bad feelings fester, or made their concerns public, seeking remedies through the media. None of those approaches was ideal for resolving workplace claims of discrimination, and none ensured employees of the Legislative Branch a fair system to address their concerns. Frequently, “remedies through the media” was the most effective approach for an employee.

Prior to 1995 and the enactment of the CAA, Occupational Safety and Health Act protections did not apply to the Legislative Branch, and, unlike with allegations of discrimination, there were no internal controls to ensure the application of OSH protections. Consequently, many employees – including our electricians, landscapers, and utility tunnel workers – worked

without the protections that apply in the private sector and Executive Branch to help prevent harmful, and sometimes deadly, results.

Also prior to the CAA's passage in 1995, the Legislative Branch was not fully accessible to the public. Constituents with disabilities often confronted substantial barriers when trying to enter Congressional buildings. The Americans with Disabilities Act required public facilities such as schools and hospitals to provide access for people with mobility, vision, hearing, or other impairments. But people with disabilities were not guaranteed access to the very Congressmen and Senators who were their elected representatives. With the passage of the CAA, they now enjoy full access to Committee proceedings, or to observe debate in the House or the Senate.

Congress passed the CAA in 1995 with nearly unanimous, bipartisan support. In doing so, Congress sought to give employees an avenue of redress for their claims of discrimination; to hold itself out as a premier employer subject to the same responsibilities and employee protections as private sector employers; and to demonstrate accountability to its constituents. It was the right thing to do.

The CAA established the Office of Compliance. With a 5-member non-partisan Board of Directors, four appointed executive staff, and a modest pool of talented and dedicated employees, the Office of Compliance performs the work of the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the Occupational Safety and Health Administration, and several divisions of the Department of Justice and the Department of Labor. We perform our duties independently, efficiently, collaboratively, and cost effectively.

THE VALUE OF OOC SERVICES

Much of the work of the OOC can involve contentious issues: employees alleging discrimination or unsafe working conditions, people with disabilities alleging barriers to access, veterans seeking credit for service in applying for legislative jobs. Unlike the services provided by other agencies (e.g. beautifying efforts of the Architect of the Capitol, security efforts of the United States Capitol Police, and the research services provided by the Library of Congress), the value of the services provided by OOC may not be so easily recognized. So, let me explain the crucial nature of the work we do.

Because of the CAA and the OOC, allegations of discrimination in the Congressional workplace can now be addressed confidentially and comprehensively. Professional counselors well-versed in the substantive protections of the CAA can help an employee work through a claim without disrupting the employing office's work environment. These objective and neutral counselors can also be helpful to an employing office when an office contacts the OOC for help in resolving

an issue before it disrupts the workplace. During confidential mediation, a certified and neutral third-party will meet with an employee and the employing office to facilitate a mutually acceptable solution to a problem.

On average, over 90% of claims presented to our agency are resolved within our administrative procedures. It is fair to say that without the continued effectiveness of these statutorily mandated programs, Congress would be seeing many more cases proceed to litigation or to the press.

Due to the passage of the CAA, the 30,000 employees of the Legislative Branch can perform their duties with the same OSHA protections as private sector workers across the country. OOC safety and health staff inspect workplaces to identify hazards so they can be remedied before accident or injury occurs. Since the 109th Congress, when OOC began conducting comprehensive safety and health inspections of workplaces in the Washington, DC metropolitan area, our safety and health staff have facilitated a 60% reduction in the safety and health hazards affecting Legislative Branch employees. In the 109th Congress, our inspectors identified 13,140 hazards. In the 110th Congress, there were 9,200 hazards identified; and in the 111th Congress, there were 5,400 hazards identified. This reduction is due in large part to the skill and dedication of our inspectors, the technical assistance and education we provide to employing offices, and the collaboration and cooperation of employing offices in abatement efforts.

When Congress enacted the CAA, it guaranteed for the first time that all members of the public, including people with disabilities, had access to Legislative Branch facilities. At the request of this Subcommittee and its counterpart in the Senate, our inspectors performed an ADA "preinspection" of the Capitol Visitor Center before its December 2008 opening. OOC inspectors identified dozens of access barriers in the CVC's 580,000 square feet, involving doors, ramps, restrooms, dining areas and other facilities. Because our team was brought in before the contractors had finished their work, many of the barriers were corrected more quickly and at lower cost than might otherwise have been the case. As a result, the CVC welcomes hundreds of thousands of visitors every year and offers comprehensive, barrier-free access to all.

As is clear, services provided by the OOC minimize disruption to the important work you do on behalf of the American people. These services help to create the workplace envisioned by the CAA. We are required to resolve workplace rights issues quickly so that the essential work of the Legislative Branch can continue. We are required to identify safety and health hazards - including emergency evacuation - so they can be corrected before an employee, Representative, or Senator is injured. We are required to ensure public access to the Legislative Branch for all, including people with disabilities. We are required to educate the Congressional

community on the rights and responsibilities provided in the CAA. We recognize the positive impact that these statutory mandates have on the Congressional community, and we are asking for the funding necessary to continue this essential work.

NECESSARY FUNDING FOR FY 2013

For fiscal year 2013, OOC is requesting a total of \$4,206,000: 12% less than our FY 2012 appropriations request and 10.19% (\$389,000) above our fiscal year 2012 enacted funding level of \$3,817,000. This small requested increase restores a portion of the 13.1% reduction in funding the OOC has absorbed over the last two fiscal years: 6.7% in FY 2011, and 6.4% in FY2012.

WHAT WE HAVE NOT REQUESTED IN THE PAST

Mindful of the fiscal constraints facing the Federal Government, over the last two appropriations cycles, OOC has worked to keep its funding requests to a minimum, resulting in a shortage of necessary funds.

During fiscal year 2011, the OOC worked to develop the risk-based inspection and abatement approach that the Conference Committee on FY2010 Legislative Branch Appropriations directed OOC to institute. Developing and implementing that approach required an additional safety and health inspector, as risk-based inspections are more complex than the wall-to-wall inspections we had performed previously. We didn't request funding for that purpose. Instead, we renewed our fiscal year 2010 request to the Occupational Safety and Health Administration to detail one or more safety and health inspectors on a short-term, non-reimbursable basis, to provide temporary inspection assistance at no additional expense to the OOC. As in fiscal year 2010, however, budget constraints continued to prevent the Department of Labor and other agencies from supplying non-reimbursable detailees. Because we had been advised that no detailee would be available in FY2010, FY2011, or the foreseeable future, we did not make a third request in FY2012. In fiscal year 2012, the need for an additional inspector was still pressing, yet, in an effort to present a minimal budget, we refrained from asking this Subcommittee for the necessary funding.

In addition, to keep our budget requests low, we previously have not requested funding for many initiatives on workplace issues that would benefit agencies, employees, and Member offices. For example, to save time, money, travel, and to provide privacy to employing offices and their staff, offering an online training program directly linked to OOC's website would be

the most effective means of educating the covered community on rights and responsibilities under the CAA. However, because of the need to minimize our budget requests, we have not asked for funding for this type of training.

OUR COST-CUTTING MEASURES

The OOC has been sensitive to the challenges faced by this Subcommittee, and we have kept our budget requests low. In order to continue pursuing our mission with the funding provided to us, we reorganized our staff and cut back services. We were required to lay off an attorney, which left a gap in our case-handling ability. We have had to cut inspector hours by nearly 50% since FY2010 - leaving many workplaces, including Member offices, uninspected. We have been forced to eliminate the technical assistance we provide to employing offices, as those hours are needed to perform inspections of high hazard areas. We have reduced the rates paid to our hearing officers, established a flat per-case rate for our mediators, and brought some mediations in-house. We have eliminated training for all employees and travel for non-Board Members. Because of the reductions in funding, we have had to reduce maintenance on a case tracking system that continues to crash. We have limited travel for our Board Members (all but one of whom lives outside the Washington, DC metropolitan area), cut back the purchase of supplies and information technology equipment, and reduced certain basic custodial services. We have tightened our purse strings, just like every other agency, and figured out a way to get the job done with the funds we have been appropriated.

The job we've been doing, however, is not the job you deserve. Budget cuts seriously threaten our ability to ensure the safety and accessibility of the Congressional workplace and the confidential resolution of workplace disputes.

WHAT WE WILL DO WITH REQUESTED FUNDING

The funding requested in fiscal year 2013 will restore a portion of the funding that was cut over the last two fiscal years. At the requested level for FY2013, the OOC will be able to add one safety and health inspector, which will help us implement the risk-based inspection and abatement approach that you asked us to undertake, and evaluate additional Legislative Branch facilities to identify any barriers to public access for people with disabilities. We will also be able to maintain our current pool of distinguished mediators and hearing officers, ensuring the continued integrity of our confidential dispute resolution program.

The remainder of the increase will allow the agency to meet its obligations under inter-agency service agreements and replace the dysfunctional case management system. We are still not asking for everything we need, but we are asking for additional funding so that we can restore some of the critical services that make the Legislative Branch a more accessible, fair, and safe workplace.

CONCLUSION

The work of the Office of Compliance adds value to the Congressional campus – that is clear. Because of Congress' decision to apply workplace rights laws, safety laws, and public access laws to the Legislative Branch, the Congressional community is closer to being in line with Executive Branch agencies and the private sector. Funding the OOC at the requested level will help ensure that these laws can be applied as Congress envisioned in the CAA.

The OOC's request for an additional \$389,000 is minimal - less than 1% of the 2012 enacted funding level of any of the agencies for which we provide services. We provide services to 30,000 Legislative Branch employees, whose workplaces span nearly 18 million square feet in the Washington, DC metropolitan area alone. Our requested funding is an infinitesimal sum in light of the enormous responsibility placed upon us by the CAA. Yet, this funding is critical to the operations of our agency and to the services we can provide to you.

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.

[Testimony for the record submitted by outside witnesses follows:]



American Association of Law Libraries

MAXIMIZING THE POWER OF THE LAW LIBRARY COMMUNITY SINCE 1906

March 20, 2012

Representative Ander Crenshaw
Chairman
Subcommittee on Legislative Branch Appropriations
U.S. House of Representatives
440 Cannon House Office Building
Washington, D.C. 20515

Representative Michael Honda
Ranking Member
Subcommittee on Legislative Branch Appropriations
U.S. House of Representatives
1713 Longworth House Office Building
Washington, D.C. 20515

RE: Fiscal Year 2013 Funding for the Government Printing Office and the Library of Congress

Dear Chairman Crenshaw and Ranking Member Honda:

On behalf of the American Association of Law Libraries (AALL), I thank you for the opportunity to submit testimony for the record in support of the Fiscal Year (FY) 2013 budget requests of the Government Printing Office (GPO) and the Library of Congress (LC).

AALL was founded in 1906 to promote and enhance the value of law libraries, to foster the profession of law librarianship, and to provide leadership in the field of legal information. Today, with over 5,000 members, the Association represents law librarians and related professionals who are affiliated with a wide range of institutions: law firms; law schools; corporate legal departments; courts; and local, state and Federal government agencies.

We thank the Subcommittee for its support of GPO and LC in FY 2012. We are particularly grateful for the comments you both made during debate on the House floor last July in support of the important work of GPO and in opposition to further cuts. We were very pleased that Congress approved the Conference Report to the FY 2012 Consolidated Appropriations Act (House Report 112-331) with higher levels of funding for GPO and LC than what was included in the House and Senate appropriations packages.

Government Printing Office

The Government Printing Office opened its doors 150 years ago with the mission to promote the democratic process by keeping the American people informed about the workings of their government. Today, GPO promotes an open and accountable government by providing timely, electronic access to official, authentic information in multiple formats from all three branches of government. Law librarians rely on permanent public access to

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25 Massachusetts Avenue NW, Suite 500
Washington, D.C. 20001
202/942-4233
efeltren@aall.org

AALL Headquarters
105 West Adams Street, Suite 3300
Chicago, IL 60603
312/939-4764
www.aall.org

AALL Testimony to House Subcommittee on Legislative Branch Appropriations
March 20, 2012

official, authentic legal information in multiple formats to conduct legal research and assist lawyers, judges and members of the public in finding the information they need.

GPO requested no additional funding for FY 2013 thanks to the effective leadership of former Public Printer William J. Boorman and new Acting Public Printer Davita Vance-Cooks. GPO has saved costs by conducting buyouts that shrunk the agency to its smallest size in more than 100 years, reducing unnecessary overhead, and prudent spending. These reductions have allowed the agency to continue and even expand its critical programs to "Keep America Informed." AALL strongly supports full funding for GPO.

First, we urge you to support GPO's request of \$83.6 million for the Congressional Printing and Binding Appropriation, which covers the cost of information produced for Congress in digital and print formats including the *Congressional Record*, bills, hearings, reports, and other materials. These documents are critical to help the public and researchers understand the deliberative process of Congress and the complex issues facing the two chambers and the country.

As Public Printer Boorman testified last year, approximately 70 percent of the cost to produce official materials is put into creating the electronic files, which are used to produce the print and electronic versions. It is vital that primary legal materials continue to be distributed to depository libraries because print is both official and authentic.

Second, AALL strongly supports the Federal Depository Library Program (FDLP) and we urge you to fund GPO's request of \$34.7 million for its Salaries and Expenses Appropriation. Through its partnership with 1,220 geographically diverse Federal depository libraries, GPO fulfills its mission to inform the Nation by ensuring no-fee, public access to the printed and electronic information published by all three branches of the Federal government. More than 200 law libraries are depository libraries, providing members of the public with expert assistance and access to official, authentic government information that otherwise might not be available to them.

A recent survey of FDLP users conducted by GPO, Outsell, Inc. and the Depository Library Council found that 79 percent agreed that access to FDLP information resources saved them time and/or money, and 87 percent agreed that they would use FDLP resources again and recommend their use to colleagues and friends. In these difficult financial times, the FDLP is a smart investment.

Third, AALL urges you to fully support GPO's request of \$7.8 million for the Revolving Fund, which covers essential improvements to the agency's technology infrastructure and systems development, including the Federal Digital System (FDsys). AALL members participated in the initial tests of FDsys and shared feedback with the agency throughout the development process. Every day, our members rely on FDsys, which replaced GPO Access as the official system of record for online government information.

We commend GPO for pursuing new partnerships with other Federal agencies to make unique and highly valuable information available to the public through FDsys. For example, GPO recently worked with the National Archives and Records Administration to make the audio tape recordings from immediately after President Kennedy's assassination available. This led to the highest number of daily visits to FDsys - 55,856 on January 31, 2012. GPO also created a new app for the Federal budget which garnered a remarkable 53,000 visits in the first 24 hours. There is clearly a high level of public interest in these exceptional resources, and without GPO's leadership these products would not be available.

Library of Congress

The mission of the Library of Congress is to "support the Congress in fulfilling its constitutional duties and to further the progress of knowledge and creativity for the benefit of the American people." Service to the Congress

AALL Testimony to House Subcommittee on Legislative Branch Appropriations
March 20, 2012

is the first priority of the Law Library of Congress. Housed within the Library, the Law Library was established by Congress in 1832. The Law Library is the world's largest law library, with a collection of over 2.82 million volumes spanning the ages and covering virtually every jurisdiction in the world. AALL supports a strong Library of Congress and urges the Subcommittee to fully fund the Library's FY 2013 budget request, which asks for a nominal increase in the Library budget over FY 2012, an amount necessary to counter the effect of inflation.

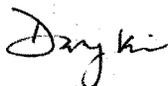
First, AALL strongly supports the Law Library's priority initiatives, including the development of Law.gov, which will be a public portal to authoritative and authenticated global legal and legislative information from around the world. AALL has been working with the Law Library to build a National Inventory of Legal Materials that will be used to support Law.gov. AALL also supports the classification of the remaining 504,130 volumes to Class K Law Classification. Currently, unclassified materials are not fully accessible to the Congress, scholars, lawyers, and the general public.

Second, the Library of Congress urgently needs more storage space to house its unique and growing collections. The Law Library in particular is impacted by the lack of storage space; without more physical space, the Law Library will not be able to acquire and maintain current legal materials. To address this mounting problem, the Architect of the Capitol, which is responsible for maintenance and construction of Library facilities, has requested \$5 million to complete Phase I of a new storage facility, known as Modular (Mod) 5 at the Library's 100 acre campus at Ft. Meade in Maryland. The Library requests \$1.04 million for the handling and inventorying of approximately 800,000 items that need to be shifted to the Library's Landover storage annex pending completion of Mod 5. AALL urges Congress to provide full funding for this project to ensure that the Law Library continues to be the world's foremost repository of legal information.

Finally, AALL strongly supports the policy work of the Copyright Office, including its comprehensive studies that aid in legislative deliberations (e.g. studies on library exceptions, orphan works, and mass digitization). These studies are very important to a wide range of stakeholders, including AALL, and require sufficient funding.

Thank you for your consideration of AALL's views regarding the Government Printing Office and Library of Congress funding requests. Please contact Emily Feltren, AALL's Director of Government Relations, if AALL and its members can provide additional information or assistance to the Subcommittee. Ms. Feltren can be reached at efeltren@aall.org and (202) 942-4233.

Sincerely,



Darcy Kirk
President

cc: Members, Subcommittee on Legislative Branch Appropriations

AALL Testimony to House Subcommittee on Legislative Branch Appropriations
March 20, 2012

Darcy Kirk
Biography

Darcy Kirk serves as the 94th President of the America Association of Law Libraries (AALL). Prior to becoming President, she served as AALL Vice-President from 2010-2011 and Secretary from 2005-2008. She is also Past President of the Law Librarians of New England.

Ms. Kirk is Associate Dean for Library and Technology and Professor of Law at the University of Connecticut School of Law where she directs the law library, information systems, and teaches Advanced Legal Research and Higher Education Law. Before joining the law faculty in 1996, Ms. Kirk worked at Harvard University's Widener Library, served in several positions at the Boston College Law Library, and served as the Associate Law Librarian for Public Services at Georgetown University Law Center.

She holds an AB from Vassar College, an MLS and MBA from Simmons College, and a JD from Boston College.

AALL Testimony to House Subcommittee on Legislative Branch Appropriations
March 20, 2012

LEGISLATIVE BRANCH SUBCOMMITTEE

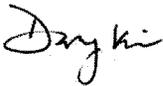
Witness Disclosure Form

Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.

<p>Your Name, Business Address, and Telephone Number: Ms. Darcy Kirk University of Connecticut School of Law Library 39 Elizabeth St Hartford, CT 06105-2287 (860) 570-5109</p>
<p>1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.</p> <p>American Association of Law Libraries 25 Massachusetts Avenue, NW Suite 500 Washington, D.C. 20001 (202) 942-4233</p>
<p>2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2008?</p> <p>Yes <input checked="" type="radio"/> NO</p>
<p>3. If your response to question #2 is "Yes", please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.</p>

Signature:

Date: March 20, 2012





GAO EMPLOYEES ORGANIZATION IFPTE Local 1921

P.O. Box 50236 Washington, DC 20091-0236
(202) 512-2760 • www.gaoanalysts.org

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John Johnson
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Kurt Burgeson
Carrie Davidson
Jose Ramos
Angela Pleasants

March 15, 2012

The Honorable Ander Crenshaw
Chairman
Legislative Branch Subcommittee
Committee on Appropriations
House of Representatives

The Honorable Mike Honda
Ranking Member
Legislative Branch Subcommittee
Committee on Appropriations
House of Representatives

Mr. Chairman, Mr. Ranking Member, and Members of the Subcommittee:

The GAO Employees Organization, International Federation of Professional and Technical Engineers, Local 1921 appreciates the opportunity to submit our views on the Government Accountability Office budget for fiscal year 2013. We support GAO's request for an appropriation of \$526.3 million for FY 2013, a 2.9 percent increase over FY 2012. GAO employees have proven themselves to be a tremendous value for the Congress by finding financial savings of \$45.7 billion in FY 2011, a return on investment of \$81 for every dollar invested in GAO. However, the agency has reduced its staff capacity by 11 percent in the last 2 years, which will result in missed opportunities for GAO to generate value. Any reductions in our budget would adversely impact GAO's capacity to support Congress during this critical period.

In response to FY 2012's reduced budget appropriations, we worked with GAO management to identify and implement many cost saving measures to avoid layoffs or furloughs. Such measures included a one year suspension of awards and significantly limited performance based pay increases. In addition, we are working with management to reduce office space to lower GAO's rental expenses through the use of expanded teleworking. Pilot projects are currently underway in the Boston and San Francisco field offices to support expanded telework in conjunction with reductions in office space. However, we believe the results of the pilot must be carefully reviewed and evaluated before similar programs are put into place in other field offices and GAO's headquarters.

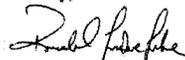
Some of the reductions made in the FY 2012 GAO budget have resulted in the elimination of valuable recruitment and retention programs that exacerbate GAO's challenge to maintain ongoing workforce capacity. About 40 percent of senior executives, 25 percent of supervisory analysts, and 12 percent of entry-level analysts

are currently eligible for retirement. GAO has eliminated valuable recruitment and retention programs, such as student loan repayments, awards, and retention incentives. These tools are essential to recognize and motivate our high-performing workforce. Some highly-valued GAO employees have already left the agency as a result of these cutbacks. Reductions and staff capacity caused by retirements, other separations, and a lack of hiring due to decreased budgets intensifies these challenges.

In his February 7, 2012 testimony, the Comptroller General said that the requested budget increase would be used to rebuild GAO's staff capacity by hiring additional staff and by bolstering recruitment and retention programs by *partially* reinstating valuable recruitment and retention programs. We agree that bolstering GAO's professional, diverse, and multidisciplinary staff is critical to our success in providing significant benefits to Congress; however, we also believe that enhancing the retention of current GAO staff, all of whom have undergone a multi-year, rigorous training program, should take priority over the hiring of additional staff. Because GAO's employees are highly skilled, well trained and have a unique experience overseeing federal programs, they are attractive candidates for employment within the public and private sectors. We have witnessed talented employees leave GAO for comparable federal jobs and positions in private sector corporations for higher pay as a result of GAO's reductions in performance based pay and retention programs. Full restoration of these programs would provide valuable incentives for our analysts and support staff to continue to work to achieve results for Congress. Once these programs are fully reinstated, we fully support the hiring of additional staff.

Once again, we very much appreciate the opportunity to present our views on GAO's FY 2013 budget to the Subcommittee.

Sincerely,



Ronald La Due Lake

Subcommittee on the Legislative Branch

Witness Disclosure Form

Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.

Your Name, Business Address, and Telephone Number:

Ronald La Due Lake 202 512-2760
GAO Employees Organization, Local 1921
P.O. Box 50236
Washington, DC 20091-0236

1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.

GAO Employees Organization, IFPTE Local 1921

2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2006?

Yes No

3. If your response to question #2 is "Yes", please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.

Signature:



Date: March 16, 2012

Ronald La Due Lake, Ph.D.

laduelaker@gao.gov

Expertise: engagement design and planning.
 quantitative and qualitative research methods and analysis.
 study reviews.
 survey methods.
 small group methods.

Awards: Integrity Award - 2008
 Results through Teamwork Awards - 2003, 2005 (2), 2007
 Big Picture Award – 2006
 Jackelope Award – Learning Center, 2007
 Team Awards - DCM, ARM, EWIS, SI, LC 2002 – 2009

Professional Experience:

*United States Government Accountability Office, Applied Research and Methods,
 Washington, DC*

Senior Social Science Analyst, IIB *January, 2006 – present*

Sara Ann Moessbauer, supervisor
 David Alexander, supervisor

Senior Social Science Analyst, II *June 29, 2003 – December, 2005*

David Alexander, supervisor

- Coordinate research design and methodological support to DCM across a range of issue areas. Manage collaborative CDMA support of multiple technical disciplines, including engagement design and methods, evaluation methods, survey methods, small group methods (expert panels, focus groups), study reviews, statistics, and data reliability and analysis. For example, served as a CDMA/ARM stakeholder on 59 engagements and was the focal point for ARM support/ assigned methodologist on 43, including 15 complex engagements that involved coordinating expertise from multiple ARM colleagues.
- Communicate methodological concerns to a wide range of internal and external stakeholders, including senior GAO management and executive branch agency officials.
- Provided direction and constructive feedback to colleagues within and outside of ARM in the development and implementation of engagement methods and analysis, including newer design staff and engagement analysts.
- Develop and teach mandatory and elective courses in engagement planning and methods with the Learning Center, including the required 'Logic of Engagement Planning.'
- Contribute to ARM working groups and projects, including revising methods courses, participating in the SRS alternative work group, and coordinating ISTS support for the CDMA web pages.

Social Science Analyst, I

May 13, 2002 – June 28, 2003

David Alexander, supervisor

Barry Seltser, supervisor

- Consult with multiple engagement teams about the appropriate application of a wide range of research methods and analytic techniques, including timeframes and risks.
- Communicate methodological concerns to a wide range of internal and external stakeholders, including senior GAO management and executive branch agency officials.
- Write and review technical sections of GAO reports to meet disciplinary standards.

*Caliber Associates, Fairfax, VA, July 25, 2001 – May 1, 2002**(purchased by ICF International- 2005)*Senior Associate

- Designed and conducted analyses for the Center for Substance Abuse Prevention Data Coordinating Center (CSAP DCC).
- Coordinated substance abuse prevention intervention cost analyses.
- Developed substance abuse program cost data collection protocol.
- Supervised implementation of cost data collection pilot study.
- Produced written and oral reports and presentations.
- Interfaced DCC analysis and publication teams.
- Consulted on design elements of web-based data analysis system.

*OMNI Research and Training**OMNI Institute, Denver, CO, June 23, 2000 – June 30, 2001*Senior Researcher

Jim Adams-Berger, supervisor

- Developed and supervised project budgets (\$250,000).
- Project lead on multi-year youth substance abuse prevention program evaluation (State Incentive Grant, SIG).
- Hired, supervised research and administrative support staff.
- Wrote research proposals and developed client relations.
- Participated in business development.
- Conducted in-house seminars in organizational learning and statistics.
- Consulted on design and methods tasks for multiple projects.
- Managed staff in program technical assistance and evaluation research.
- Designed and implemented evaluation analyses.
- Produced written and oral reports.

*Center for Survey Research, Indiana University, 1997 - 2000*Project Manager, 1996 St. Louis-Indianapolis Election Study.

Bob Huckfeldt, supervisor

*Center for Research in Law and Justice, University of Illinois at Chicago, 1995-96*Project Manager, NIJ funded longitudinal study of community policing.

Dennis Rosenbaum, supervisor

Selected GAO Reports and Testimonies (Key Methodological Contributor)

- Maritime Security: Updating U.S. Counterpiracy Action Plan Gains Urgency as Piracy Escalates off the Horn of Africa. GAO-11-449T.
- Defense Transportation: Additional Information Is Needed for DOD's Mobility Capabilities and Requirements Study 2016 to Fully Address All of Its Study Objectives. GAO-11-82R.
- Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross-Border Currency Smuggling. GAO-11-73.
- Defense Planning: DOD Needs to Review the Costs and Benefits of Basing Alternatives for Army Forces in Europe. GAO-10-745R.
- Warfighter Support: Actions Needed to Improve the Joint Improvised Explosive Device Defeat Organization's System of Internal Control. GAO-10-660.
- Depot Maintenance: Improved Strategic Planning Needed to Ensure That Navy Depots Can Meet Future Maintenance Requirements. GAO-10-585.
- Depot Maintenance: Improved Strategic Planning Needed to Ensure That Air Force Depots Can Meet Future Maintenance Requirements. GAO-10-526.
- Defense Infrastructure: Opportunities Exist to Improve the Navy's Basing Decision Process and DOD Oversight. GAO-10-482.
- Warfighter Support: Improvements to DOD's Urgent Needs Processes Would Enhance Oversight and Expedite Efforts to Meet Critical Warfighter Needs. GAO-10-460.
- Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Need to Be Further Strengthened. GAO-10-405T.
- Military Personnel: Additional Actions Are Needed to Strengthen DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs. GAO-10-215.
- Defense Infrastructure: DOD Needs to Take Actions to Address Challenges in Meeting Federal Renewable Energy Goals. GAO-10-104.
- Overseas Contingency Operations: Reported Obligations for the Department of Defense. GAO-09-1022R, GAO-09-791R.
- Homeland Defense: Greater Focus on Analysis of Alternatives and Threats Needed to Improve DOD's Strategic Nuclear Weapons Security. GAO-09-828.
- Personnel Security Clearances: Progress Has Been Made to Reduce Delays but Further Actions Are Needed to Enhance Quality and Sustain Reform Efforts. GAO-09-684T.
- DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process. GAO-09-400.
- Military Operations: Actions Needed to Improve Oversight and Interagency Coordination for the Commander's Emergency Response Program in Afghanistan. GAO-09-615.
- National Preparedness: FEMA Has Made Progress, but Needs to Complete and Integrate Planning, Exercise, and Assessment Efforts. GAO-09-369.

- Defense Infrastructure: Additional Information Is Needed to Better Explain the Proposed 100,000-Acre Expansion of the Pinon Canyon Maneuver Site. GAO-09-171.
- Defense Infrastructure: Army's Approach for Acquiring Land Is Not Guided by Up-to-Date Strategic Plan or Always Communicated Effectively. GAO-09-32.
- DOD Personnel Clearances: Preliminary Observations about Timeliness and Quality. GAO-09-261R.
- Global War on Terrorism: Reported Obligations for the Department of Defense. GAO-09-233R.
- Military Operations: DOD Needs to Address Contract Oversight and Quality Assurance Issues for Contracts Used to Support Contingency Operations. GAO-08-1087.
- Global War on Terrorism: Reported Obligations for the Department of Defense. GAO-08-1128R.
- Military Personnel: Actions Needed to Strengthen Implementation and Oversight of DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs. GAO-08-1146T.
- Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges. GAO-08-924.
- Military Base Realignments and Closures: Army Is Developing Plans to Transfer Functions from Fort Monmouth, New Jersey, to Aberdeen Proving Ground, Maryland, but Challenges Remain. GAO-08-1010R.
- Ballistic Missile Defense: Actions Needed to Improve Process for Identifying and Addressing Combatant Command Priorities. GAO-08-740.
- Military Personnel: Preliminary Observations on DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs. GAO-08-GAO-08-1013T.
- Military Operations: Actions Needed to Better Guide Project Selection for Commander's Emergency Response Program and Improve Oversight in Iraq. GAO-08-736R.
- Defense Infrastructure: High-Level Leadership Needed to Help Communities Address Challenges Caused by DOD-Related Growth. GAO-08-665.
- Global War on Terrorism: Reported Obligations for the Department of Defense. GAO-08-853R.
- Defense Transportation: DOD Should Ensure that the Final Size and Mix of Airlift Force Study Plan Includes Sufficient Detail to Meet the Terms of the Law and Inform Decision Makers. GAO-08-704R.
- Global War on Terrorism: Reported Obligations for the Department of Defense. GAO-08-557R.
- DOD Personnel Clearances: DOD Faces Multiple Challenges in Its Efforts to Improve Clearance Processes for Industry Personnel. GAO-08-470T.
- DOD Personnel Clearances: Improved Annual Reporting Would Enable More Informed Congressional Oversight. GAO-08-350.
- Global War on Terrorism: Reported Obligations for the Department of Defense. GAO-08-423R.
- Military Personnel: The DOD and Coast Guard Academies Have Taken Steps to Address Incidents of Sexual Harassment and Assault, but Greater Federal Oversight Is Needed. GAO-08-296.

- **Bankruptcy: Implementation of Reform Act's Debt Reaffirmation Agreement Provisions.** GAO-08-94
- **Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry.** GAO-08-192T
- **Military Personnel: Federal Agencies Have Taken Actions to Address Servicemembers' Employment Rights, but a Single Entity Needs to Maintain Visibility to Improve Focus on Overall Program Results.** GAO-08-254T.
- **Global War on Terrorism: DOD Needs to Take Action to Encourage Fiscal Discipline and Optimize the Use of Tools Intended to Improve GWOT Cost Reporting.** GAO-08-68.
- **Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry.** GAO-08-219.
- **Potential Effect of Bankruptcy Abuse Prevention and Consumer Protection Act on Child Support Payments Cannot Be Determined because Data Needed for Study Are Not Available.** GAO-08-148R.
- **Military Personnel: Number of Formally Reported Applications for Conscientious Objectors Is Small Relative to the Total Size of the Armed Forces.** GAO-07-1196.
- **Military Personnel: DOD's Predatory Lending Report Addressed Mandated Issues, but Support Is Limited for Some Findings and Recommendations.** GAO-07-1148R.
- **Global War on Terrorism: Reported Obligations for the Department of Defense.** GAO-07-1056R.
- **Military Operations: Actions Needed to Improve DOD's Stability Operations Approach and Enhance Interagency Planning.** GAO-07-549.
- **Military Operations: The Department of Defense's Use of Solatia and Condolence Payments in Iraq and Afghanistan.** GAO-07-699.
- **Global War on Terrorism: Reported Obligations for the Department of Defense.** GAO-07-783R.
- **DOD Personnel Clearances: Delays and Inadequate Documentation Found for Industry Personnel.** GAO-07-842T.
- **Missile Defense: Actions Needed to Improve Information for Supporting Future Key Decisions for Boost and Ascent Phase Elements.** GAO-07-430.
- **Military Base Closures: Opportunities Exist to Improve Environmental Cleanup Cost Reporting and to Expedite Transfer of Unneeded Property.** GAO-07-166.
- **Defense Trade Data.** GAO-06-319R.
- **Best Practices: Better Support of Weapon System Program Managers Needed to Improve Outcomes.** GAO-06-110.
- **Survey on Program Manager Effectiveness.** GAO-06-112SP.
- **Military Personnel: Federal Management of Servicemember Employment Rights Can Be Further Improved.** GAO-06-60.
- **Community Policing Grants: COPS Grants Were a Modest Contributor to Declines in Crime in the 1990s.** GAO-06-104.
- **Military Personnel: Federal Management of Servicemember Employment Rights Can Be Further Improved.** GAO-06-60.
- **Commercial Aviation: Bankruptcy and Pension Problems Are Symptoms of Underlying Structural Issues.** GAO-05-945.
- **Homeland Security: Agency Resources Address Violations of Restricted Airspace, but Management Improvements Are Needed.** GAO-05-928T.

- Defense Transportation: Air Mobility Command Needs to Collect and Analyze Better Data to Assess Aircraft Utilization. GAO-05-819.
- Defense Transportation: Opportunities Exist to Enhance the Credibility of the Current and Future Mobility Capabilities Studies. GAO-05-659R.
- Unmanned Aerial Vehicles: Improved Strategic and Acquisition Planning Can Help Address Emerging Challenges. GAO-05-395T.
- Social Security Numbers: Governments Could Do More to Reduce Display in Public Records and on Identity Cards. GAO-05-59.
- Social Security Disability: Improved Processes for Planning and Conducting Demonstrations May Help SSA More Effectively Use Its Demonstration Authority. GAO-05-19.
- 2010 Census: Basic Design Has Potential, but Remaining Challenges Need Prompt Resolution. GAO-05-9.
- Human Capital: DHS Faces Challenges in Implementing Its New Personnel System. GAO-04-790.
- 2010 Census: Overseas Enumeration Test Raises Need for Clear Policy Direction. GAO-04-470.
- Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects. GAO-04-83.

Selected Teaching Experience

- Developing Surveys for Auditors, 2007, Texas State Audit Office.
- Logic of Engagement Planning, 2004 to present, U.S. GAO.
- Data Collection Strategies, 2004 to 2007, U.S. GAO.
- Statistical Modeling, 2004 to present, U.S. GAO.
- Choosing a Survey Administration Method, 2004, U.S. GAO.
- Developing and Writing Survey Questions, 2004, U.S. GAO.
- Pretesting Surveys, 2004, U.S. GAO.
- Data Analysis and Interpretation Workshop, 2004, IRS Office of Strategy and Finance, through Management Concepts, Inc.
- Data Analysis I & II for graduate students, 1995 - 1996, Department of Political Science, University of Illinois at Chicago.

Education:	Ph.D., Political Science and Public Policy, Indiana University, Bloomington, 2000. M.A., Political Science, University of Illinois at Chicago, 1996. B.A., Political Science, University of Illinois at Chicago, 1994.
Job-related Training:	Cognitive Interviewing, Gordon Willis. Research Update on Questionnaire Writing, Jon Krosnick. Visual Design of Questionnaires, Don Dillman. National Defense University 501, DCM. Qualitative Evaluation Methods, Michael Quinn Patton.
Honors:	First Prize, 1999 General Social Survey Competition. Phi Beta Kappa, Pi Sigma Alpha, Phi Kappa Phi. Who's Who Among Students in American Universities & Colleges, 1998.
General:	U.S. Citizen, Secret level clearance

**Statement of the National Federation of the Blind
Before the Subcommittee on the Legislative Branch
Committee on Appropriations
United States House of Representatives
Washington, D.C.
March 19, 2012**

Mr. Chairman, my name is John G. Paré Jr. I am the executive director for strategic initiatives at the National Federation of the Blind. My address is 200 East Wells Street, Baltimore, MD 21230; my telephone is (410) 659-9314, extension 2227.

I am testifying on behalf of the National Federation of the Blind. I appreciate the opportunity to comment on the NLS Talking Book Program before this Committee.

The National Federation of the Blind is the largest and most influential organization of blind people in the United States. Founded in 1940, the Federation has over 50,000 members representing a cross-section of the blind of America from all fifty states, the District of Columbia, and Puerto Rico. All of our leaders and the vast majority of our members are blind, and we are known as the voice of the nation's blind. We are consumers of the NLS program.

The National Library Service for the Blind and Physically Handicapped of the Library of Congress (NLS) is the primary provider of reading material for over 800,000 Americans who are blind or have physical limitations that make it impossible for them to read print. Patrons of the service include senior citizens who are losing vision, students at all levels of education from kindergarten to graduate school, military veterans who are blind or have physical disabilities, and blind professionals in all fields. NLS is the only public library that serves the blind in the United States. In fact, it is more than a public library. If a public library in a given city closes down or cuts back on services due to funding concerns, sighted readers can visit another library, go online to purchase books or e-books, or go to Barnes and Noble or their favorite local bookseller. These are not realistic options for many blind people.

For only the third time in its eighty-year history of exemplary service, the NLS has undergone a transition in the technology it uses to provide Talking Books to people who cannot read print. These books were originally produced on long-playing records and then on audio cassette tapes. Both of these technologies are now obsolete. Indeed, NLS has now ceased production of cassette books, and new titles are available only in the new digital format. For this nation's Talking Book readers, the digital age has begun. NLS patrons can now download Talking Books through the NLS Braille and Audio Reading Download (BARD) site, allowing them to access tens of thousands of titles at any time they wish to read them. Patrons can also receive books through the mail on specially designed flash memory cartridges that can be played on the new Digital Talking Book machines that became available to all patrons in 2010. The machines can also accept standard USB flash drives. These new Digital Talking Book

players are universally praised by patrons, who find that their simple operation, advanced features, and excellent sound quality significantly enhance the reading experience. Talking Books are produced according to the DAISY electronic publishing standard, allowing patrons to use the controls on their digital players to move easily between chapters of a book or articles in a magazine, set bookmarks, and adjust the reading speed.

NLS also continues to provide Braille books and magazines to its patrons who read Braille and to those who are learning the code. This is critically important because only around 10 percent of blind children in the United States are being taught to read and write Braille. The National Federation of the Blind is working diligently to reverse this harmful trend, which leaves many students and adults who are blind or have low vision functionally illiterate--unable to read print efficiently and without the alternative technique of Braille. If more people are to learn the Braille code and become proficient in reading it, they must have access to quality Braille materials. The NLS program ensures that Braille materials are produced and made widely available. Like Talking Books, Braille books are also available online so that readers can download them to Braille-aware personal digital assistants or computers equipped with refreshable Braille displays. NLS also makes available Braille musical scores and instructional materials, making the service an invaluable resource for blind musicians and those who study music.

Although the record of service of the NLS to blind Americans is exemplary overall, the National Federation of the Blind is concerned about cuts in funding that will adversely affect the continued digital transition. Furthermore, the total number of books that are available to NLS patrons remains very small compared to the collection of the average public library. An average library user in a city of average size has access to more books than does the nationwide population served by NLS. The NLS BARD site has 24,777 books available for download, and around two thousand new Talking Books and five hundred new Braille books are produced each year. But hundreds of thousands of new books are published in the United States each year, and the average public library in an average-size city has hundreds of thousands of volumes in its collection.

NLS has enough digital machines to serve its patrons. Its existing collection of cassette books, however, has not yet been converted to digital format. According to NLS, only 16,500 titles from its retrospective collection will be converted to digital format by the end of fiscal year 2013, leaving approximately forty thousand books that are available on cassettes but will not be available in digital form. In other words, NLS patrons will simply lose approximately 40,000 titles. This is a dramatic and unacceptable loss of content, especially given that the overall collection is tiny when measured against that of the average library or bookstore, let alone the Library of Congress itself. Depending on the stock of working cassette players available at a given regional network library, the capacity to repair broken cassette machines, and the ability of a regional library to duplicate cassettes if tapes are broken or lost (all of which are significant limiting factors that vary widely among the network libraries), the majority of patrons may not have access to these forty thousand titles at all.

The digital transition was scheduled for a six-year process that would have been completed at the end of fiscal year 2013. We have been told, however, that NLS considers the digital transition to have been completed at this time and that no additional appropriations will be requested for the next fiscal year. Given the fact that some forty thousand retrospective titles have not yet been converted to digital form, we disagree with the assessment that the digital conversion has reached a successful conclusion. A quick review of the books available on the BARD site reveals significant gaps in the NLS digital collection. For example, the first parts of Shakespeare's multi-part historical dramas about kings Henry IV and Henry VI of England are available, but not the remaining parts of these works. A patron seeking the works of Charles Dickens on the BARD site will find three different editions of *A Christmas Carol*, but not a single recording of *Great Expectations*. Two novels by Ayn Rand—*The Fountainhead* and *Atlas Shrugged*—are available as Digital Talking Books, but the remaining titles of her fiction and nonfiction in the NLS collection are only available on cassette. The unabridged autobiography of our forty-second president, William Jefferson Clinton, is also not available as a digital download or digital cartridge. Some of these titles may yet become available as digital books, but they will do so only because NLS will be forced to abandon conversion of others. NLS is placed in the unfortunate position of deciding which forty thousand books it will, in effect, eliminate from its circulating collection. All libraries must prune their collections from time to time, of course, but rarely do they toss out such a large proportion of their collections in one fell swoop. The fundamental problem is that NLS simply doesn't have the resources to convert its entire retrospective collection.

Given the very small number of books available to NLS patrons, even if all retrospective titles are ultimately converted, the library must also have the flexibility to explore ways in which it can produce more books. For example, audio versions of books can be created using computerized text-to-speech technology rather than human narrators. While we do not believe that NLS should reduce its capacity to produce recorded books with human narration, it should also explore supplementing the collection by producing audio DAISY books with text-to-speech.

The National Federation of the Blind urges Congress to ensure that sufficient funds are appropriated to the National Library Service for the Blind and Physically Handicapped of the Library of Congress to convert all of its retrospective collection to the new digital format. We further urge this committee to appropriate funds specifically for continued innovation and exploration of new production techniques, such as conversion of books to audio files using text-to-speech technology, so that the NLS collection can dramatically expand. As the only library service available to blind Americans, it is imperative that the NLS have access to all of the funds it needs in order to carry out its critically important mission.

Access to the printed word has historically been one of the greatest challenges faced by the blind. With this service, hundreds of thousands of Americans have improved their ability to learn from and enjoy printed material and, therefore, have improved their

opportunity for education, employment, and enlightenment. This program is not a handout from the government to the less fortunate, but a means for the blind to achieve our rightful place as equal, engaged, and empowered members of American society. NLS is the single most effective federal program serving blind Americans today, and it is certainly the program with the broadest and deepest impact. As such, it deserves to be funded at a level commensurate with its critical importance that allows it to fulfill its mission "that all may read."

Blind Americans will continue to monitor and advocate for this critically important program. I thank you again for allowing the National Federation of the Blind to testify before you, and I look forward to our next opportunity to update you on developments related to the NLS program.

LEGISLATIVE BRANCH SUBCOMMITTEE

Witness Disclosure Form

Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.

Your Name, Business Address, and Telephone Number:

John G. Paré Jr.
200 East Wells Street
Baltimore, MD 21230
Telephone: (410) 659-9314, ext. 2227
Cell phone: (410) 917-1965

1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.

Representing the National Federation of the Blind

2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2008?

Yes **XX** No

3. If your response to question #2 is "Yes," please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.

All were received by the National Federation of the Blind

Library of Congress (National Library Service)

Program: Braille Certification Training
 2008: \$677,171.98
 2009: \$529,329.26
 2010: \$525,794.10
 2011: \$584,654.71

Program: NFB-NEWSLINE® Improved Delivery Methods

2008: \$121,481.25.
 2009: \$670,318.75
 2010: \$671,878.00
 2011: \$586,100.00

National Aeronautics and Space Administration

Program: NASA – Youth Slam 2009
 2009: \$600,000.00

**National Archives and Records Administration
 (National Historical Publications and Records Commission)**

Program: Bringing Blind History to Light Project
 2009: \$23,331.90
 2010: \$74,824.74
 2011: \$26,842.75

Small Business Administration

Program: Access to Libraries and Learning: Creating Technology for the Blind to Promote Entrepreneurship
 2008: \$46,354.46
 2009: \$149,338.36
 2010: \$83,566.78

U.S. Department of Health and Human Services

Program: Help America Vote Act
 2008: \$33,584.10
 2009: \$95,938.14
 2010: \$91,374.95
 2011: \$90,756.69

U.S. Department of Education

Program: Mentoring for Transition Aged Youth
 2008: \$242,355.59
 2009: \$163,207.00

Signature:



Date: March 19, 2012

John G. Paré Jr.
Executive Director for Strategic Initiatives
National Federation of the Blind
200 East Wells Street
Baltimore, MD 21230
E-mail: jpare@nfb.org
Telephone: (410) 659-9314, ext. 2227

WORK EXPERIENCE

July 2007 to Present
Executive Director for Strategic Initiatives
National Federation of the Blind--Baltimore, Maryland

Mr. Paré oversees the continuing growth of NFB-NEWSLINE®, the largest electronic newspaper service in the world, and the Federation's national Governmental Affairs and Public Relations offices. He has testified before the House of Representatives Committee on Appropriations, Subcommittee on the Legislative Branch regarding library services for blind Americans. He has also appeared on CNN, Fox, BBC, and various radio programs to discuss issues affecting blind Americans. He has testified before the United Nations World Forum for Vehicle Harmonization regarding the dangers posed by silent vehicles. He is a member of the Society of Automotive Engineers Committee on Vehicle Sound for Pedestrians, and has advised automotive manufacturers on the danger posed by silent hybrid vehicles.

May 2006 to July 2007
Director of Public Relations
National Federation of the Blind--Baltimore, Maryland

Mr. Paré was responsible for the national publicity campaign for the Kurzweil--National Federation of the Blind Reader. He coordinated over 500 newspaper articles, 100 television clips, and represented the National Federation of the Blind on *Good Morning America* with Diane Sawyer.

April 2004 to May 2006
Director of Sponsored Technology Programs
National Federation of the Blind--Baltimore, Maryland

Mr. Paré was responsible for technical management and national outreach for the NFB-NEWSLINE® program. He coordinated partnerships with Associated Press, AARP, and Tribune Media services resulting in a dramatic increase in content.

September 2001 to April 2004

Investment analysis and portfolio management--Tampa, Florida

Mr. Paré reviewed three to five companies per week, analyzing their 10-Q (SEC quarterly report), 10-K (SEC annual report), and recent press releases. He prepared spreadsheet financial models to determine future earnings potential and present fair value of stocks.

1994 to September 2001

E-MASS, Inc. / ADIC, Inc.--Arlington, Virginia

In 1994, Mr. Paré was transferred from Garland, Texas, to Arlington, Virginia, and promoted to Government Sales Manager. In 1998, Advanced Digital Information Corporation (ADIC) purchased E-MASS and Mr. Paré was promoted to United States Vertical Markets Sales Manager and was responsible for Government, Oil and Gas, and Entertainment Media sales. His responsibilities included sales management, sales presentations, quote review, and final negotiations.

1986 to 1994

E-Systems, Inc.--Garland, Texas

Mr. Paré joined E-Systems as a senior engineer responsible for specialized computer design and programming. He was one of the lead designers as well as a technical manager. Over time he became more specialized in computer mass storage and was responsible for customer presentations. In 1992, E-Systems spun off the mass storage portion of the company and created a wholly owned subsidiary called E-MASS, Inc. By this time, Mr. Paré had moved out of his purely technical position and was responsible for technical pre-sales operations. His job included preparing and delivering technical presentations along with specific customer proposals. His major customers included the Department of Defense, NASA Goddard Space Flight Center, and Mobil Oil.

1984 to 1986

Harris Corporation--Melbourne, Florida

Mr. Paré worked as a senior engineer doing specialized computer programming and design. Mr. Paré contributed to several government proposals and traveled to the Washington, D.C., area for technical presentations.

VOLUNTEER EXPERIENCE

American Action Fund for Blind Children and Adults

Member of the Board of Directors, November 2007 to present.

National Federation of the Blind, second vice president of the Greater Baltimore Chapter, November 2005 to October 2010

National Federation of the Blind, treasurer of the Tampa Chapter, September 2003 to March 2004.

Visually-impaired persons support group, president, Tampa, March 2003 to March 2004.

Society of St. Vincent de Paul Food Pantry, manager, January 2003 to March 2004.

Tampa Museum of Art, board member of the Friends of the Arts.

EDUCATION

M.S., Computer and Information Science, University of Florida, 1984

B.S., Computer and Information Science, University of Florida, 1982

Comments for the Record

from Daniel Schuman
Policy Counsel of the Sunlight Foundation
Director of the Advisory Committee on Transparency

for the Committee on Appropriations
Subcommittee on Legislative Branch
United States House of Representatives

on the Budget for
the Library of Congress and
the Government Printing Office,
regarding bulk access to
THOMAS legislative information

February 6, 2012

Comments of the Sunlight Foundation

February 6, 2012

Chairman Crenshaw, Ranking Member Honda, and members of the Committee, thank you for the opportunity to submit comments on the budget for the Library of Congress and the Government Printing Office.

I am the Policy Counsel for the Sunlight Foundation, a non-partisan non-profit dedicated to using the power of the Internet to increase government openness and transparency, and Director of the Advisory Committee on Transparency, a project of the Sunlight Foundation that brings together organizations from across the political spectrum in support of the Congressional Transparency Caucus' mission of educating policymakers on transparency issues.

Today's comments are focused on the failure of the Library of Congress to meet Congress's charge to "report on the feasibility" of "enhancing public access to legislative documents, bill status, summary information, and other legislative data through more direct methods such as bulk data downloads and other means of no-charge digital access to legislative databases."¹ Four years have elapsed since the Library said it "would look into the issue" in response to congressional prompting;² three years have passed since appropriators directed the Library to undertake a study;³ and I testified about ongoing failures to make progress on bulk access to THOMAS data before this Committee last May.⁴

Providing bulk access to data means that users can download all the information contained in a database at once. By contrast, an Application Programming Interface, or API, allows computers to ask a database for specific information. THOMAS does not support either of these technologies. Instead, programmers must build tools called web scrapers that simulate a person going to each page of a website, copying that information into a database, and then trying to put those results into context. This is very hard to do automatically, particularly with large quantities of information, and the scrapers often break or take a lot of time to gather all the necessary information.

¹ Committee Print of the House Committee on Appropriations that accompanied the House Committee on Appropriations Omnibus Act of 2009, P.L. 111-8 (March 2009); page 1770 of the print, available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_house_committee_prints&docid=f:47494g.pdf (or <http://1.usa.gov/YSHd9>).

² "Lawmakers favor outside access to legislative data," *Government Executive* (Jan. 23, 2008), available at <http://www.govexec.com/oversight/2008/01/lawmakers-favor-outside-access-to-legislative-data/26148/> (or <http://bit.ly/A4c5le>).

³ See the Committee Print at footnote 1.

⁴ "Daniel Schuman testimony before the House Committee on Appropriations regarding CRS and THOMAS," *Sunlight Foundation* (May 11, 2011), available at <http://sunlightfoundation.com/policy/documents/daniel-schuman-testimony-house-committee-appropriations/> (or <http://bit.ly/AsrHN4>).

Recognizing this problem and the importance of public access to information, the government already provides bulk access to many datasets. The Government Printing Office, one of the entities responsible for THOMAS, has published six legislative datasets online in bulk, including the Code of Federal Regulations and the Federal Register.⁵ Data.gov, which provides the public bulk access to government data, contains 3,824 “high value” data sets as of February 3, 2012,⁶ with 1.5 million data downloads in the last year.⁷ Compared to this veritable feast of information, THOMAS provides only a small morsel at a time.

As I mentioned earlier, there are ongoing efforts to scrape THOMAS, but these methods are prone to error, onerous, slow, and fragile. Even so, the scraped data is gathered and used by websites like GovTrack.us and OpenCongress.org, which increase the audience for congressional information by providing better user interfaces and adding important context. This data is often used on mobile platforms, too. The Sunlight Foundation’s Congress app for the Android⁸ smart-phone has been downloaded over 400,000 times.

A variety of non-government developers are extending the reach and value of legislative information. Much important information is being made available at no cost to the public. Its dissemination improves everyone’s awareness of what’s going on in Congress. These private sector efforts are necessarily limited because of the difficulty of getting the data from the Library and GPO in the first place. Legislative support agencies should recognize that aiding non-governmental efforts to disseminate legislative information is a crucial component of their public service mission.⁹

Congress has already recognized the importance of sharing legislative data

⁵ The GPO’s bulk data website is available at <http://www.gpo.gov/fdsys/bulkdata> (or <http://1.usa.gov/kukxRG>).

⁶ Of the 391,428 data sets, 3,824 are so-called “high value” data sets, while the vast majority is Geodata. See <http://www.data.gov/metric> (accessed 2/4/2012).

⁷ Data.gov monthly download trends, available at <http://www.data.gov/metric/visitorstats/monthlyredirecttrend> (accessed 2/4/2012).

⁸ The Android app is provided free of charge at <https://market.android.com/details?id=com.sunlightlabs.android.congress&hl=en> (or <http://bit.ly/wMq6ZE>).

⁹ Then-Public Printer Bob Tapella wrote in March 2009 that, in response to Congress’ request to discuss access to bulk data, “a Legislative branch task force has been assembled consistent of representatives from the offices of the Secretary of the Senate, the Clerk of the House, the Library of Congress, Congressional Research, the Law Library of Congress, and GPO. This task force has already met and is working to develop a position on access to bulk data.” See “Response to James Jacob’s FreeGovInfo Comments,” *FreeGovInfo* (April 13, 2009), available at <http://freegovinfo.info/node/2509#comment-26446>. Later that year, he stated “I also believe that the Federal Government has an obligation to provide complete legal and regulatory information online in an electronic format that is fully usable by the American people free of charge.” See “Remarks from the Public Printer of the United States Robert C. Tapella,” FDLP (October 19, 2001), available at http://www.fdlp.gov/home/repository/doc_view/1089-public-printer-remarks (or <http://bit.ly/xo9n22>).

broadly. In 2009, Congress adopted a forward-thinking approach that would have required an examination of granting the American people access the entirety of the legislative archives at once – via “bulk” access – in its explanatory statement accompanying the Omnibus Appropriations Act of 2009.¹⁰ It said:

Public Access to Legislative Data.--There is support for enhancing public access to legislative documents, bill status, summary information, and other legislative data through more direct methods such as bulk data downloads and other means of no-charge digital access to legislative databases. The Library of Congress, Congressional Research Service, and Government Printing Office and the appropriate entities of the House of Representatives are directed to prepare a report on the feasibility of providing advanced search capabilities. This report is to be provided to the Committees on Appropriations of the House and Senate within 120 days of the release of Legislative Information System 2.0.

The House had initially wanted to go further, proposing a report from the Library of Congress within 90 days of enactment of the 2009 legislation,¹¹ but the requirement was changed to no later than 120 days after the release of LIS 2.0.¹² A report was anticipated to be released during the first part of 2009.¹³ Three years later, the Library has apparently ignored Congress’ mandate.

¹⁰ Explanatory statement available at <http://bit.ly/kEiQeN> (or [http://www.opencongress.org/wiki/THOMAS_bulk_data_access#Policy Documents and Gov.27t_Resources](http://www.opencongress.org/wiki/THOMAS_bulk_data_access#Policy_Documents_and_Gov.27t_Resources)).

¹¹ Description of the original proposal is available in “Legislative Database recommendation makes it to House Leg Branch Appropriations markup,” *Open House Project* (July 14, 2008), available at <http://www.theopenhouseproject.com/2008/07/14/legislative-databases-recommendation-makes-it-to-house-leg-branch-appropriations-markup/> (or <http://bit.ly/w4ZhcW>). The original text of the proposal:

The Committee believes that the public should have improved access to legislative information through more advanced search capabilities such as those available through the Library of Congress’ Legislative Information System. The Committee also supports enhancing public access to legislative documents, bill status, summary information, and other legislative data, **through more direct methods such as bulk data downloads** and other means of no-charge digital access to legislative databases. The Committee requests that the Library and Government Printing Office **report on the progress towards these goals within 90 days of enactment of this Act.** (emphasis added)

¹² It is unknown whether LIS 2.0 is still an ongoing project within the Library. LIS 2.0 was mentioned in the Congressional Research Services’ *Annual Report for Fiscal Year 2009*, but was not mentioned in the 2010 report. The 2011 report has not yet been released to the public, and the 2009 report has been removed from CRS’ website. However, the 2009 report is available from the Sunlight Foundation at http://assets.sunlightfoundation.com.s3.amazonaws.com/policy/papers/crs09_annrpt.pdf (or <http://bit.ly/jFTzsz>), and the 2010 report is available at http://assets.sunlightfoundation.com.s3.amazonaws.com/policy/papers/CRS/crs10_annrpt.pdf (or <http://bit.ly/w2STqq>).

¹³ See “Lawmakers favor outside access to legislative data,” at footnote 2.

Movement has been so slow that the House of Representatives has been able to build and implement a system within a year that makes many primary House documents available online in bulk,¹⁴ with more information to go online soon. A major focus of the exemplary House Legislative Data and Transparency Conference, hosted by the Committee on House Administration on February 2, 2012, was the importance of bulk access to legislative information.¹⁵ The Library of Congress and GPO are being left in the dust. They must be prompted to act.

Times have changed since the Committee's original unheeded directive, and we request your renewed attention. We urge the committee to direct the Library of Congress, the Government Printing Office, and the Congressional Research Service – or the agencies that now have responsibility for THOMAS – to provide bulk access to legislative documents, bill status, summary information, and other legislative data within 120 days. In addition, we ask for the immediate creation of an advisory committee composed of members of these agencies and members of the public that regularly meets to address the public's need for public access to this information and the means by which it is provided. Only sustained attention can ensure that we finally make progress.

I appreciate the opportunity to draw your attention to this matter, and I welcome any questions that you may have. I can be contacted at dschuman@sunlightfoundation.com or 202-742-1520 x 273.

¹⁴ "House Launches Transparency Portal," *Sunlight Foundation* (Jan. 13, 2012), available at <http://sunlightfoundation.com/blog/2012/01/13/house-launches-transparency-portal/>.

¹⁵ The conference website is <http://cha.house.gov/about/contact-us/legislative-data-conference> (or <http://1.usa.gov/yCYNcD>).

LEGISLATIVE BRANCH SUBCOMMITTEE

Witness Disclosure Form

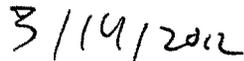
Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.

<p>Your Name, Business Address, and Telephone Number:</p> <p><i>Daniel Schuman, the Sunlight Foundation</i> <i>1818 N St. NW Ste 300, Washington DC 20036</i> <i>202-742-6520 x273</i></p>
<p>1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.</p> <p><i>the Sunlight Foundation</i></p>
<p>2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2008?</p> <p>Yes <input type="radio"/> No <input checked="" type="radio"/></p>
<p>3. If your response to question #2 is "Yes", please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.</p>

Signature:



Date:



[Clerk's Note: David Moore, Executive Director of the Participatory Politics Foundation and Joshua Tauberer, Co-founder and Chief Technology Officer of POPVOX submitted statements for the record. Several attempts were made by the Subcommittee to collect the required disclosure form pursuant to Clause 2(g) of rule XI of the Rules of the House of Representatives requiring non-governmental witnesses to disclose to the Committee certain information. This information ~~has not been~~ provided at time of print therefore ~~these~~ statements are not being included in the record.]

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