

**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.

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I would be happy to respond to any questions the Subcommittee might have. Thank you for your consideration.