

STATEMENT OF
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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.