

LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 2010

THURSDAY, MAY 7, 2009

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:35 p.m., in room SD-138, Dirksen Senate Office Building, Hon. Ben Nelson (chairman) presiding.
Present: Senators Nelson, Pryor, and Murkowski.

ARCHITECT OF THE CAPITOL

STATEMENT OF STEPHEN T. AYERS, ACTING ARCHITECT OF THE CAPITOL

OPENING STATEMENT OF SENATOR BEN NELSON

Senator NELSON. We will come to order.

We will begin. I will get through the opening statement, and then we will take care of Senator Murkowski's opening statement when she gets here.

Good afternoon, and we are happy to have so many people here. We are meeting this afternoon to take testimony on the fiscal year 2010 budget requests for the Architect of the Capitol (AOC) and the Office of Compliance (OOC).

It is my pleasure to welcome shortly the ranking member and my good friend Senator Murkowski, and Senator Pryor is here and will return. And I believe Senator Tester is also planning to be here.

I want to welcome our witnesses today—Stephen Ayers, Acting Architect of the Capitol and Tamara Chrisler, the Executive Director of the Office of Compliance. We welcome both of you. It is good to have you here, and we look forward to hearing from you.

If it is possible to keep your opening statements brief, around 5 minutes, and submit the rest of your testimony for the record, it probably would work best for us. And I now welcome my ranking member, Senator Murkowski, and Senator Pryor to the hearing.

One thing that I think, hopefully, we established at our first hearing a couple weeks ago is that we are not eager to increase the overall legislative branch budget. We certainly intend to address your agencies' needs, but this is not the year for the "nice to haves."

This subcommittee received an 11 percent increase in fiscal year 2009, but I seriously doubt that we are going to see anything near a double-digit increase this year.

AOC APPRECIATION

Mr. Ayers, I would like to first extend my personal gratitude to your entire staff for their hard work in maintaining the Capitol complex on a daily basis. You have got a very dedicated workforce. We are aware of that. We see it every day. And in particular, I would acknowledge the great service provided to us here in the Senate, led by the Senate Superintendent Robin Morey.

It was interesting to note that while we recently celebrated the 100th birthday of the Russell Senate Office Building, the House is estimating a cost of about \$753 million to remodel the Cannon House Office Building, which was built just 1 year earlier. So I think it says an awful lot for AOC's Senate folks who truly do a great job, and we appreciate all of your efforts.

Mr. AYERS. Thank you, Mr. Chairman.

Senator NELSON. You are welcome.

The Architect of the Capitol's fiscal year 2010 budget request totals \$644.6 million, a 20 percent increase over current year. And as we discussed in my office a few weeks ago, an increase like this is going to be quite a challenge, especially following the 28 percent increase your agency received in fiscal year 2009.

Now I realize what you are going to face in maintaining working historical buildings with all the aging infrastructure while being held to mandated energy reductions. But we are going to have to work closely in identifying your most critical needs in crafting the 2010 appropriations bill.

I also want to welcome Tamara Chrisler from the Office of Compliance. Your budget totals \$4.4 million, a 10 percent increase over current year, including one additional employee, who brings your agency to a total of 22 full-time employees (FTEs). I look forward to hearing more about your agency mission and your fiscal year 2010 request.

Now I would like to turn to my ranking member, Senator Murkowski, for her opening remarks.

STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman.

I add my welcome to both of you here this afternoon. Ms. Chrisler and Mr. Ayers, we appreciate the work that both of you have done over the years.

Mr. Ayers, I think your agency's accomplishments as you have dealt with the opening of the Capitol Visitor Center (CVC), preparing the Capitol for the President's inauguration, keeping the facilities in good condition, we appreciate your efforts, that of your staff. And again, thank you for that.

I understand that the AOC is moving forward with a variety of energy-related projects. I look forward to hearing a little bit more about those initiatives this afternoon.

As the chairman has mentioned, we have seen with this legislative branch request for fiscal year 2010 a total of over \$5 billion, an increase of nearly 15 percent over fiscal year 2009. And Mr. Chairman, as I said in my last hearing and you have repeated, I am in favor of the legislative branch serving as a model for the rest

of the Government. My questions today will seek to determine how we can accomplish that goal.

AOC BUDGET REPRESENTATION

As you have indicated, the AOC budget represents a 20 percent increase, while the budget resolution, which we just passed, calls for a 7 percent increase in discretionary spending.

Now I think we do appreciate here in the Capitol—we see it as we walk through—there is a backlog of projects within the AOC, primarily, because of the age of our buildings and the fact that we are still playing some catchup with implementing fire and life safety standards.

But it is my understanding that some of the projects in the budget request probably wouldn't make it into the General Services Administration's (GSA) budget, for instance, because the legislative branch is held to a higher standard than the executive branch. And I understand the Congressional Accountability Act (CAA) enables the Office of Compliance to apply standards that would not ordinarily be applied to historic buildings.

Now I want to be clear that I am very supportive, absolutely supportive of having strong fire and strong life safety standards. But I do have to question whether applying a gold standard to the legislative branch is appropriate. I think we need to be pragmatic, and I think we need to operate within a risk-based framework.

I do believe that we need to do some paring back, and we will need your help, Mr. Ayers and Ms. Chrisler, to ensure that we meet the highest priorities and we fund those projects that really do give us the most bang for the buck, if you will. But I appreciate your good work, and I look forward to your testimony this afternoon.

Senator NELSON. Senator Pryor, you waive your opening statement?

Senator PRYOR. I have no opening statement, Mr. Chairman.

Senator NELSON. But not questions?

Senator PRYOR. Exactly.

Senator NELSON. All right. Thank you.

Well, first of all, Mr. Ayers, please, if you would, your opening remarks?

SUMMARY STATEMENT OF STEPHEN AYERS

Mr. AYERS. Thank you, Mr. Chairman and Senator Murkowski and members of the subcommittee, for the opportunity to testify today regarding the AOC's fiscal year 2010 budget.

First, I would like to thank the subcommittee for your support of our fiscal year 2009 budget to make the Capitol a safer, greener, and more efficient place. This year, we are requesting \$644 million to support the maintenance, care, and operations of the buildings and grounds of the Capitol complex. We have developed our budget request to reflect the massive challenge of addressing the need to preserve the historic infrastructure on Capitol Hill while also recognizing the need to be fiscally responsible.

AOC CHALLENGES—NEEDS VS. RESOURCES

One of our biggest challenges is to maintain the aging infrastructure in this city within a city here on Capitol Hill. In March, we celebrated the 100th anniversary of the Russell building, and last year, we marked the 100th anniversary of the Cannon House Office Building.

These buildings are historic and iconic, and require extensive maintenance in order to preserve them while, at the same time, keeping pace with new technologies, increased security requirements, and the necessary visitor amenities.

Mr. Chairman, our needs far exceed the available resources, and we have developed an excellent project prioritization process to enable the Congress to make the best possible and informed decisions. Every project is evaluated on its importance, its urgency, and its category. These are really important, so I would like to take a moment to explain them.

PROJECT PRIORITIZATION

First, each project is categorized as deferred maintenance, capital renewal, capital improvement, or capital construction. Our budget requests are driven by the large number of deferred maintenance projects, as we believe it is most important to care for what you have before constructing new. So, in fact, 63 percent of our budget is focused on these deferred maintenance projects, and only 12 percent is focused on capital renewal projects.

Next, each project's urgency is determined by independent consultant assessments of our facilities. Projects are ranked as immediate, high, medium, or low urgency.

Finally, each project's importance is carefully evaluated based upon a set of predetermined criteria, including historic preservation, fire and life safety, mission, economics, physical security, and energy and sustainability. We take all of these factors and bring them all together in a composite rating guide and, ultimately, deliver to the Congress a list of prioritized projects, top to bottom.

AOC'S FISCAL YEAR 2010 PROJECT REQUESTS

For fiscal year 2010, this list totaled \$350 million worth of projects, and we have decided to request \$168 million worth of those projects, which are only the highest, most urgent, and most important of all of those on the list. The choice to fund more projects or fewer projects is easy and is as simple as moving up or down on this priority list, depending upon the bottom line we need to achieve.

We have continued to refine the data on which our planning is based. For example, over the past 5 years, we have conducted these independent facility condition assessments throughout the Capitol complex. These assessments identified the most critical issues in the facilities, and the objective data collected during this process helps us to identify which urgent needs must be done expeditiously.

Specifically, the data continues to show that immediate and high-urgency deferred maintenance and capital renewal projects will increase significantly over the coming years. If these conditions are not addressed within a reasonable period of time, they will con-

tinue to deteriorate to the point where they can, and will, impact congressional operations.

Last year, thanks to the subcommittee's commitment for funding to reinvest in the Capitol complex facilities, we were able to make a significant step toward buying down much of this deferred maintenance work. This includes improving life safety conditions throughout the Capitol complex.

CAPITOL COMPLEX'S ENVIRONMENTAL FOOTPRINT

We have been aggressively working to reduce the Capitol complex's overall energy consumption and its environmental footprint. In fiscal year 2008, our energy conservation efforts resulted in reducing the Congress' energy consumption by 10.7 percent, exceeding the 2008 requirement of 9 percent.

While these steps are significant, in moving forward, our goal is to make the Capitol complex more sustainable and energy efficient. There is still much work to do in furthering our sustainability practices.

Mr. Chairman, the U.S. Capitol is the people's house, and for that reason, it is imperative that we do everything we can to continue to protect and preserve the Nation's icon for generations to come.

PREPARED STATEMENT

Thank you, and I would be happy to answer any questions you may have.

Senator NELSON. Thank you.

[The statement follows:]

PREPARED STATEMENT OF STEPHEN T. AYERS

Mr. Chairman, Senator Murkowski, and members of the Subcommittee, thank you for the opportunity to testify today regarding the Office of the Architect of the Capitol's (AOC's) fiscal year 2010 budget request.

I want to thank the Subcommittee for your support of our fiscal year 2009 budget request and the programs and priorities we set out in that submission, as well as for your guidance as we continually work to achieve our goals to serve Congress with a commitment to excellence.

The past 6 months have been an extraordinary time for the AOC as the U.S. Capitol once again served as the Nation's stage. On December 2, the doors to the Capitol Visitor Center (CVC) were opened to the public for the first time. Since that day, we have seen record numbers of daily visitors—just 2 weeks ago we saw our first day of more than 19,400 guests. Over the past 5 months, we have seen visitation at the Capitol double over the number of guests received last year.

Just 6 weeks after the CVC opened, the eyes of the world again turned to the Capitol Building for the historic 56th Presidential Inauguration. The AOC's involvement dates back to the 1860s when the Presidential Inauguration became a decidedly public event, and arrangements were made to allow the President to be closer to the people when taking the oath of office. We are honored to shoulder the responsibility for making all the infrastructure arrangements that are necessary to accommodate this event every 4 years.

Given the magnitude of this event, we knew there was no room for error—the President-elect must be sworn-in at noon on January 20. Our capable team rose to the challenge; working countless hours to ensure that the Presidential platform was constructed, the seats on the West lawn were in place, and all of the final details were completed to ensure that the ceremony was successfully supported.

As we worked to accommodate modern technologies into the Inaugural ceremonies, we also stayed true to our daily mission, which is to protect and preserve the national treasures entrusted to our care. Standing on the Inaugural platform, I couldn't help but think of the responsibility we have to ensure that the President-elect will be able to take his or her oath of office on January 20, on the West Front

of the U.S. Capitol—the iconic symbol of our representational democracy—for generations to come.

With this in mind, the AOC has developed its budget request for the past several years to reflect the massive challenge of addressing the need to preserve the historic infrastructure on Capitol Hill, while recognizing the need for fiscal responsibility.

In fact, our fiscal year 2010 budget has been structured around four focus areas. They are:

- Solving the Deferred Maintenance and Capital Renewal backlog;
- Following the Capitol Complex Master Plan process;
- Meeting Federally-mandated and Leadership energy goals;
- Managing and caring for the AOC work force.

As I have discussed with this Subcommittee at prior hearings, we must continually manage the backlog of Deferred Maintenance and Capital Renewal projects, and have put into place a process by which to prioritize these projects.

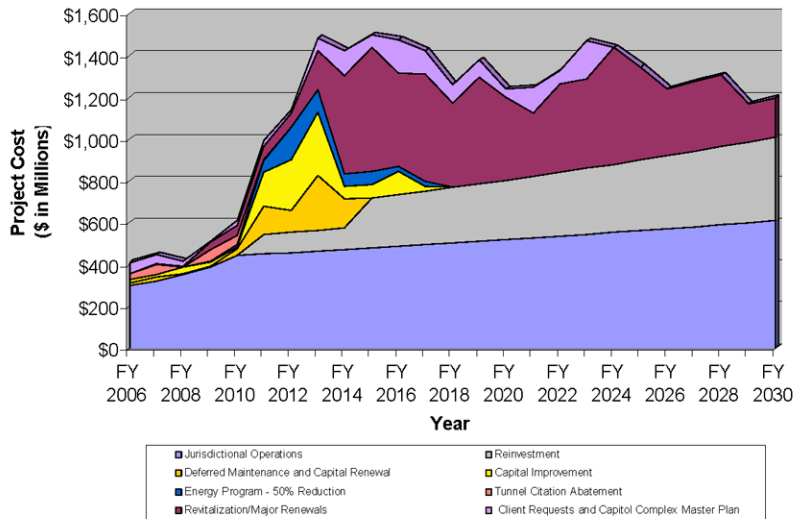
Not only do we face the challenge of the upkeep of aging buildings, we need to keep pace with new facility maintenance and building technologies, as well as increased security requirements. Last year, the Cannon House Office Building reached its 100th anniversary, and in March, we celebrated the 100th anniversary of the Russell Senate Office Building. These buildings are historic and iconic, and require extensive maintenance in order to preserve them, as well as ensure that they continue to serve as functioning, professional working environments for years to come.

The following chart—the “bow wave” chart—clearly shows that ongoing facilities requirements and new mandates have created a significant increase in resource requirements. Our fiscal year 2009 budget request, and subsequent appropriation, was a significant step in buying down a portion of the bow wave. This includes addressing stringent, modern-day fire and life-safety standards, and abating Office of Compliance citations to improve safety conditions throughout the complex. Life-safety projects are very high priorities for our Agency.

However, we must continue to work on and to invest resources in projects that will prevent our critical facilities from further deterioration and failure. If we continue to defer these projects, the bow wave will move out and costs will increase over the long run.

Long Term Demand (2009)

(\$ in Millions with inflation)

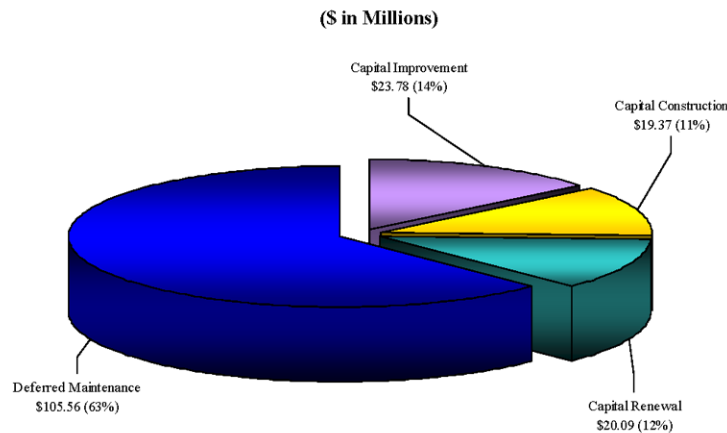


Capital Budget Request and Project Planning Process

Therefore, we are requesting \$644.6 million for fiscal year 2010. We again utilized our program development process, which relies on the recommendations in the Capitol Complex Master Planning process, in structuring this budget request. This proc-

ess assesses all the requirements of a project; determines the best way to implement these projects, including the option of “phasing” large projects over several years to manage costs and schedules; and prioritizes projects so that those of the greatest urgency are addressed immediately. We also took into consideration the need for fiscal restraint, and the challenge of executing the required programs efficiently throughout this process.

FY 2010 Project Request: by Classification



As the above chart demonstrates, we continue to invest our resources in the areas that have an “immediate” urgency rating: Deferred Maintenance and Capital Renewal projects.

We continue to refine the data on which our planning is based. For example, for the past 5 years we have conducted independent Facility Condition Assessments throughout the Capitol complex. These assessments identify the most critical issues in the facilities, and the objective data collected during this process helps us to identify the urgent needs that must be addressed expeditiously. Specifically, the data continues to show that “immediate” and “high” urgency Deferred Maintenance and Capital Renewal requirements will increase dramatically over the next several years. If these conditions are not addressed within a reasonable amount of time, they will continue to deteriorate to the point where they can, and will, impact Congressional operations.

The Facility Condition Assessments also are used to determine a Facility Condition Index based on the backlog of Deferred Maintenance work. The Facility Condition Assessments and Facility Condition Indexes are used to predict the positive effect of investment and the negative effect of deferring work. Our assessments are showing that, at current funding levels, Capitol complex facilities are trending toward a “poor” rating.

Tied into the overall planning process is the Line Item Construction Program. During this process, projects are evaluated based upon an objective set of criteria.

These criteria include:

- Preservation of historic or legacy elements or features of buildings or entire historic structures;
- Fire and life-safety, code compliance, regulatory compliance, and statutory requirements;
- Impact on mission including client urgency, and accommodation of new or changed missions;
- Economics, including value, payback, life cycle costs, and cost savings;
- Physical security, including protection of facilities and people;
- Energy efficiency and environmental aspects.

The projects are further evaluated based on the conditions of the facilities and their components, and the urgency to correct the deficiencies.

As we developed our fiscal year 2010 budget, we considered more than \$350 million worth of projects, and are requesting \$168.8 million for Line Item Construction Program projects. This prioritized list includes 36 projects; 32 of which are cat-

egorized as being of “immediate” urgency. The remaining four are categorized as “high.” An additional 85 projects remain on the deferred list.

Of particular note is a “high” urgency renewal design project: the Taft Memorial Renewal (\$240,000). The Taft Memorial was constructed in 1958 and requires significant renewal. Its Tennessee marble façade has shifted, and the stonework is in need of major repair. Included in the design are plans to make the surrounding plaza ADA compliant. If the major deficiencies in this landmark memorial are not addressed expeditiously, structural and system failures could lead to the loss of a historically significant structure.

The Senate Underground Garage has been identified by the Facility Condition Assessments as having serious deficiencies. It is rated “poor” in terms of its Facility Condition Index, and it is nearing the end of its useful life. The planned study would examine options for providing parking to meet anticipated future needs; address infrastructure issues and mechanical, electrical, and fire prevention systems that have reached their life expectancies, as well as improve energy efficiency.

Other key capital projects included in the AOC’s fiscal year 2010 budget request are:

- Interim Painting of the Capitol Dome (part of ongoing rehabilitation project);
- Sprinkler System Design, Thomas Jefferson Building;
- Various egress, fire door, and ADA restroom improvements for Library of Congress buildings;
- Independence Avenue repaving;
- Cannon House Office Building Whole Building Renewal;
- Upgrading physical security at the Capitol Power Plant;
- Purchase Hazardous Device Unit and Vehicle Maintenance Facility for U.S. Capitol Police;
- Invest in Capitol Power Plant infrastructure;
- Construct Book Storage Module 5 for Library of Congress;
- Energy Conservation projects, such as Senate Office Building computer server closet cooling, HVAC controls replacement, and other projects identified by energy audits.

Mr. Chairman, I would like to call to the Subcommittee’s attention one project that has benefited from our comprehensive planning process—the Utility Tunnel Improvement Program. Last year, we requested \$126.6 million for the program based on preliminary studies so that we could meet the 5-year completion schedule per the agreement with the Office of Compliance. After submitting the fiscal year 2009 request, we re-evaluated the program, examined phasing and contract options, and employed innovative new construction technologies to increase the pace of the work.

Based on the excellent progress made during the ongoing engineering work, we also evaluated and re-validated our approach to the project work, and refined our budget projection accordingly. We downsized our fiscal year 2009 request to \$56.4 million. In fiscal year 2010, we are requesting \$45.8 million to maintain our aggressive schedule to meet the settlement terms by 2012. All told, we were able to reduce the total projected cost of the Utility Tunnel Improvement Program from \$235 million to \$186.4 million—more than a 20 percent decrease. And, we remain on schedule to meet the settlement agreement terms by June 2012.

This past year, we have repaired and expanded the existing communications system to ensure continuous communications capability in the tunnels. As a result, the Office of Compliance approved the closure of this citation in January 2009.

We also are engaged in an aggressive program to abate friable asbestos pipe insulation from steam, condensate, and chilled water lines in the tunnels. Completion of this work is anticipated in 2010. In addition, the removal of spalling concrete is on schedule. With regard to tunnel temperatures, we have re-insulated all steam and condensate lines, the major cause of high heat conditions in the tunnels; improved the existing ventilation system to further reduce temperatures, and designed a new ventilation system to further improve temperatures. In addition, we’ve upgraded existing egresses, and we are installing new egresses where needed.

ENERGY CONSERVATION AND SUSTAINABILITY PROGRAMS

The AOC has been aggressively working to reduce the Capitol complex’s environmental footprint, and its overall energy consumption. In 2008, the AOC increased its use of natural gas; purchased renewable energy; and installed more than 14,000 compact fluorescent light bulbs. According to our analysis for fiscal year 2008, these efforts resulted in the Congress reducing its energy consumption by 10.7 percent; exceeding the fiscal year 2008 requirement of a 9 percent reduction as compared to the fiscal year 2003 baseline. For fiscal year 2009, the AOC is required by law to

meet a cumulative 12 percent reduction under the Energy Independence and Security Act of 2007; the Green the Capitol Initiative requires a 16.5 percent reduction.

To meet these requirements to further reduce energy consumption, we have requested \$17 million in fiscal year 2010 for Energy Program management, metering, and design and development of energy conservation projects. In addition, we have requested more than \$11 million for capital projects that were submitted and considered because they implement sustainability practices and/or contain projected energy savings.

However, the fiscal year 2010 request is only a down payment on the investment needed to meet the requirements of the Energy Policy Act of 2005 (2 percent per year for a total of 20 percent by 2015); Energy Independence and Security Act (3 percent reduction per year for a 30 percent reduction by 2015); and the goals of the Green the Capitol Initiative (50 percent energy reduction for the House Office Buildings, Capitol Building, and Capitol Visitor Center, and 31 percent reduction at the Capitol Power Plant by 2017). Based on what is known today, to meet the Energy Independence and Security Act goals, we estimate current and future funding requirements of more than \$320 million.

To better identify and evaluate energy savings opportunities in Capitol complex facilities, we have been using energy audits since fiscal year 2007. To date, the AOC has invested nearly \$2.5 million toward these audits, and the data collected will help us realize better cost-benefit results.

We also are implementing alternative funding strategies such as Energy Saving Performance Contracts. Under these contracts, companies invest their own capital to complete energy saving construction projects, and are then reimbursed from the savings generated by the installed projects. The AOC plans to use seven Energy Saving Performance Contracts across the Capitol complex to include individual contracts for the Capitol Building, House Office Buildings, Senate Office Buildings, Library Buildings and Grounds, Capitol Power Plant, Botanic Garden/Office of Security and Police Buildings, and Capitol Grounds.

However, the Energy Saving Performance Contracts alone will not be able to achieve the energy reductions goals mandated. We continue to purchase Renewable Energy Credits (RECs) and have requested an increase in fiscal year 2010 funding to purchase the equivalent of 100 percent of our electricity in RECs. In addition, we are continuing our efforts to complete the program to install steam, electricity, natural gas, chilled water, potable water, and condensate meters across the Capitol complex. This is a key effort in terms of being able to measure current consumption, look for improvement opportunities, and measure energy savings results.

Because the Capitol Power Plant plays a critical role in our long-term energy conservation strategy, we are continually working to improve and upgrade operations there. For example, we are developing a Strategic Energy Plan, with the assistance of the National Academies of Science, which will influence our future Energy Program planning. Another step we took was to move toward maximizing the use of natural gas at the Capitol Power Plant.

In February, following the direction of Senate and House Leadership, we took immediate steps at the Capitol Power Plant (CPP) to further reduce the production of carbon dioxide, and we are now refining the engineering strategy for equipping the CPP to meet peak steam demands using only natural gas.

Specifically, I directed the CPP staff to begin its seasonal conversion to natural gas operations immediately. In previous years this conversion did not occur until late May. Assuming the weather remains mild and we do not experience any major equipment issues, we do not expect to burn coal for the remainder of this fiscal year.

As a result of this action, we anticipate achieving a fuel ratio of 75 percent natural gas and 25 percent coal for fiscal year 2009. This significant decrease in the amount of coal used compared to fiscal year 2008 will reduce carbon dioxide levels by approximately 6,700 tons. We plan to fund the purchase cost for the additional natural gas in fiscal year 2009 from available appropriations.

We are also looking at various options for continued energy efficiencies that have emerged throughout the development of the draft Capitol Power Plant Strategic Energy Plan, which we plan to share with this Subcommittee and Congressional Leadership in the coming weeks.

Over the past several years we have been working to create a healthy and productive workplace where environmental awareness and sustainability are the normal ways of doing business in the Capitol complex. There are a number of initiatives that the AOC has been engaged in, and we continue to see results in our efforts to improve energy efficiency.

The following is a list of just a few of our ongoing energy-saving/sustainability initiatives.

- We opened an ethanol (E-85) fueling station to Legislative Branch Agencies in October 2008, for use by official flex-fuel vehicle fleets.
- We replaced more than 14,000 conventional incandescent light bulbs with compact fluorescent lamps (CFLs) across the Capitol complex.
- We implemented a policy requiring the purchase or leasing of alternate fuel vehicles when replacing aging vehicles in the AOC fleet.
- We installed dimmable ballasts in 21 Senate/Committee office suites. The program typically saves 11,400 kilowatt hours per week or 40 percent of lighting energy used in an office suite.
- We installed a renewable, solar energy source for lighting in Lot 18 in fall 2008. These new solar-powered lights save approximately 1,825 kilowatt hours per year.
- We launched our energy awareness program: Power to Save in October 2008. We are providing tools and tips on our Power to Save Web site to encourage Capitol Hill offices to conserve energy. www.aoc.gov/powertosave.
- We more than doubled total tonnage of recycled waste from 1,400 tons to 3,100 tons from fiscal year 2002 to fiscal year 2008. Contamination rates remain at zero.
- We recycled 100 percent of all AOC computer and electronic waste which includes monitors, keyboards, computers, printers, laptops, and other types of computer hardware over past 3 years.
- We are using food waste, garden clippings, and other green waste, and repurposing it as compost for flower beds and to sustain other plantings throughout the Capitol complex.

ANNUAL OPERATING BUDGET REQUEST

Our fiscal year 2010 annual operating budget request for \$423.6 million provides funding for continuing the routine activities of operating and maintaining the infrastructure which supports the Congress, other Legislative Branch agencies, and the public, as well as other AOC essential mission support services. Some of these services include financial management, safety, human resources, project and construction management, planning and development, communications, information technology, procurement, and central administration.

As I mentioned earlier, one of our four focus areas is the managing and caring for the AOC work force—our greatest asset. A budget priority for fiscal year 2010 is providing the proper training for our people. Unfortunately, the AOC lags behind the industry standards in terms of automated facility management tools. Receiving the requested funds in this area would bring us closer to that standard, and increase our ability to manage facilities utilized by Congress and the American public.

Other operating cost increases lie outside the control of the AOC. Utility rates have risen, the cost of leases has increased, recycling and bulk waste removal contracts are now more expensive, and mandatory pay raises combined with the increase in transit subsidy benefits have added to the cost of our day-to-day operations.

Additional funding is being requested for development and technical skills training for staff; to provide uniforms for employees of our Construction Division to ease recognition of staff and reduce potential security issues within the Capitol complex; to provide training, equipment, materials, and services in preparation for and response to emergency events; and to purchase necessary safety apparel such as hard hats, safety glasses, gloves, steel-toe shoes, and hearing protection for project management staff.

CAPITOL VISITOR CENTER OPERATING BUDGET REQUEST

Our past budget requests for the Capitol Visitor Center (CVC) included funding for its construction. In fiscal year 2010, construction costs are no longer part of our CVC budget. We are requesting \$24.6 million for CVC operations and administration, to include payroll for the Capitol Guides, who have been integrated into our organization, and are an integral part of our team. We also are requesting an additional 25 FTEs to support CVC full-year operations to include additional staff to coordinate greater than anticipated requests for use of the CVC rooms and restaurant services, and specialized maintenance personnel to perform furniture repairs and sheet metal repairs in the coat check rooms and the Congressional auditorium.

The mission of the Capitol Visitor Center is to provide enhanced security for all persons working in or visiting the U.S. Capitol, and a more convenient place in which to learn of the work of Congress and about the Capitol. Since December 2, 2008, when the CVC was officially opened to the public, we have been very success-

ful in achieving our goal to make the visitor experience at the U.S. Capitol one that is safe and enjoyable for all who come here.

Instead of standing in line for hours, visitors now pass through security quickly and are able to enjoy the amenities and the exhibits housed in the CVC. To date, we have welcomed more than 800,000 visitors. In late April, we hosted more than 19,470 guests in a single day, and thanks to the efforts of the U.S. Capitol Police and our Visitor Assistants, the average wait time to enter the facility was 6 minutes. In addition, every staff-led tour request during this time was accommodated.

As we continue this next year in “test and adjust” mode, Ms. Terrie Rouse, Chief Executive Office for Visitor Services, and her team continue to adapt to changing situations and make accommodations for Members of Congress as necessary. For example, they have made improvements to the tour schedule and various policies to help Members accommodate constituents who visit their offices who may not have tour reservations. She also has initiated “Congressional staff listening sessions” where staff may share ideas and thoughts about Capitol tour operations.

The Congressional Historical Interpretive Training (CHIP) Program has also been updated since last fall based on feedback from Members’ offices. Our team’s ongoing review of the pilot program’s curriculum since its implementation in fall 2008 has allowed it to grow and improve to meet participants’ needs. Thus far, more than 2,000 Congressional staff have participated in the program. We’re happy to report that the CHIP Program has greatly enhanced the tour experience for Members’ constituents, and that staff-led and Capitol tours have worked in parallel, thereby reducing security risks and optimizing safety concerns of visitor flow within the Capitol Building. Most importantly, the training has successfully met its goal to aid in the accuracy and consistency of the information provided to all visitors.

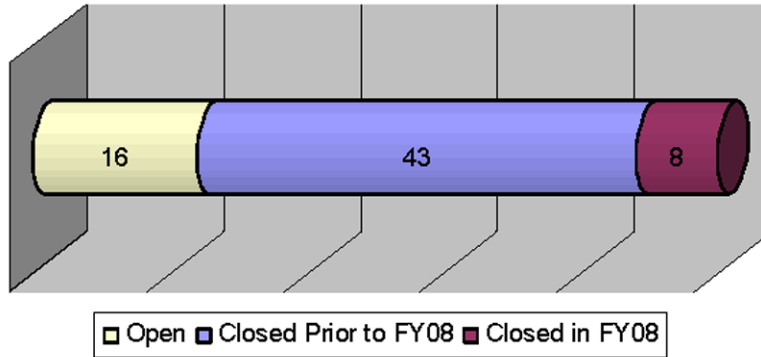
As a point of interest, I would like to add that on April 13, we introduced 50 new documents into the CVC’s Exhibition Hall. The new items, which include the December 11, 1941, resolution declaring war against Germany, one of only two printed drafts of the U.S. Constitution discussed during the 1787 Constitutional Convention, and a list of supplies requisitioned by Meriwether Lewis prior to his historic Lewis and Clark Expedition, will be on display through October 1, 2009.

AOC ACCOMPLISHMENTS

Mr. Chairman, as I discussed earlier, the past year has been one full of significant achievements for the AOC, in addition to the public opening of the Capitol Visitor Center and supporting the Presidential Inauguration. I would like to sum up my testimony by listing a few of our many accomplishments.

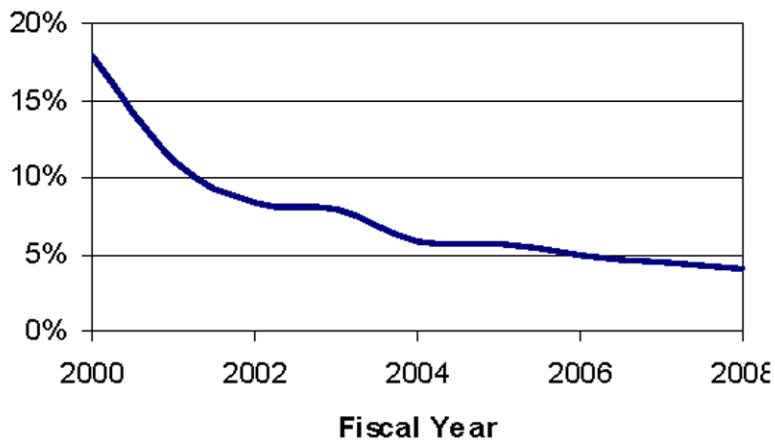
- We conducted our annual Building Services Customer Satisfaction Surveys, and in fiscal year 2008, we maintained more than 90 percent customer satisfaction rating. Customer satisfaction continues to increase annually.
- We completed 24 Senate Office moves in April. We also moved 184 House Offices and 2 House Committees in less than 1 month’s time, and achieved a customer satisfaction level of 96 percent.
- The Government Accountability Office provided the AOC with 67 recommendations to help improve its strategic management since 2003. Nearly 75 percent of those recommendations have been fully implemented, closed, or incorporated into new recommendations (as of February 2009).

**GAO
General Management Review Recommendations**



- We continued to improve our cost accounting procedures and internal controls, and received our sixth consecutive clean audit opinion on our financial statements. The Capitol Visitor Center also received a clean audit opinion.
- We conducted employee focus group sessions in April 2008 to gather observations on topics ranging from customer service and internal procedures to our mission and our work environment.
- Participants noted that the AOC has made tremendous progress over the past few years. Specifically, 54 percent of participants responded that they were satisfied or very satisfied with their jobs versus 35 percent in 2004. Those who said they were very dissatisfied with their jobs dropped from 21 percent in 2004 to just 4 percent in 2008.

AOC Injury and Illness Rate



- We decreased our Injury and Illness Rate for 9th year in a row. We dropped to 4.06 cases per 100 employees in fiscal year 2008; the lowest rate the AOC has ever sustained.
- We closed 71 of 99 items from Office of Compliance citations (80 percent), as of February 2009, and we have submitted a request to close seven additional items.
- United States Botanic Garden (USBG) has achieved accreditation from the American Association of Museums (AAM), the highest national recognition for a museum. Of several hundred public gardens in North America, the U.S. Botanic Garden is 1 of only 19 that have been awarded accreditation.
- The West Refrigeration Plant Expansion project at the Capitol Power Plant was selected as 2009 Craftsmanship Award Winner in the mechanical category for HVAC-Piping by the Washington Building Congress.
- The Washington Building Congress also recognized the AOC's Painting and Plastering team in the "Specialty Painting" category for relocating the Statue of Freedom model from the Russell Senate Office Building to Emancipation Hall in the CVC.
- Our stone mason team that worked to restore the marble floors in the Jefferson Building, while installing electrical conduits to support the new Visitors Experience project was also recognized by the Washington Building Congress with a 2009 Craftsmanship Award.

CONCLUSION

Every brick, every floor tile, every element of the U.S. Capitol is saturated with our Nation's art, history, and politics, and coming here is one of the best ways Americans can see and understand themselves, their country, and their government.

We are all part of the brick and mortar of our Nation, and this Capitol belongs to each and every one of us. For that reason, it is imperative that we do everything we can to succeed in our mission to protect and preserve our Nation's icon and a symbol of representative democracy for generations to come.

The AOC is committed to being good stewards of the Capitol complex, and in that regard, we have accomplished much and experienced numerous successes. These achievements can be directly attributed to the dedicated, professional individuals that make up the AOC team. In my role as Acting Architect for the past 26 months, I have been honored and privileged to work along side them. Because of their efforts and commitment to excellence, we continue to provide exceptional service to Congress and the visiting public.

Once again, thank you for this opportunity to testify today. Mr. Chairman, we look forward to working with this Subcommittee, the House Subcommittee on Legislative Branch, and our Oversight Committees to address the backlog of maintenance and repair projects, and continue to protect and preserve the U.S. Capitol for generations to come. I would be happy to answer any questions you might have.

OFFICE OF COMPLIANCE

STATEMENT OF TAMARA E. CHRISLER, ESQ., EXECUTIVE DIRECTOR

Senator NELSON. Ms. Chrisler.

Ms. CHRISLER. Thank you, Mr. Chairman, Ms. Murkowski, and Mr. Pryor.

I am honored to appear before you today on behalf of the Office of Compliance in support of our 2010 budget request.

There are really three major items from our budget request that I would like to highlight in my opening statement, and they involve the funding and authorization of an occupational safety and health (OSH) program supervisor, funding for the already authorized and unfunded compliance officer position, as well as funding for a contract fire safety specialist.

A HEARTFELT THANKS

Before I get to those three items, though, I would like to thank this subcommittee for the support of the efforts of the Office of Compliance. Specifically, in fiscal year 2009, the subcommittee's support allowed the office to improve our operational infrastructure, provide salary levels reflecting the outstanding performance of our staff, as well as provide technical assistance to the covered community.

Because of the support of this subcommittee, the Office of Compliance has been able to work collaboratively with the Office of the Architect of the Capitol, the Senate Sergeant at Arms, Senate Chief Employment Counsel, and the Senate Superintendent to improve the safety and health conditions on Capitol Hill and in Senate offices.

During the last two Congresses, safety and health hazards in Senate office buildings has dropped by over 50 percent, and that is due to the support of this subcommittee. So we thank you.

OOO FISCAL YEAR 2010 BUDGET REQUEST

Our 2010 budget request recognizes the economic difficulties of this country and the fiscal constraints of this subcommittee. And we have refrained from renewing old requests from fiscal year 2009 that went unfunded, and we really did some reevaluating of how we can perform the work that we need to perform with the minimal resources. So I present to you the most critical of those needs that we have.

The most critical item that I present to you today is the funding and authorization of an OSH program supervisor. Currently, that duty is being performed by a detailee from the Department of Labor. This detailee retires in calendar year 2010. The individual has over 30 years' experience in safety and health.

He is a certified industrial hygienist, and what he does is supervises the safety and health inspectors, works with outside OSH experts, and provides technical advice, expert technical advice to our general counsel. This position is critical to the success of our safety and health program.

After having spoken with some of the staff over at the Department of Labor, we have been informed that not because the Department of Labor doesn't want to, but they are going to find it very difficult to replace that individual with another nonreimbursable detailee of the same experience with the same credentials.

Through attrition, through retirement, they have lost a lot of their senior staff, and they are having a hard time servicing their needs. And they are very doubtful that they will be able to replace this position with a nonreimbursable individual.

So we are looking to have the authorization and funding to bring this position on staff. Having the position within our staff will bring accountability within our office and within the legislative branch, where it really should be, and ensure consistency with our operations.

FTE FUNDING AUTHORIZATION

The second item that I would like to discuss with you today is funding for a compliance officer. In fiscal year 2008, this subcommittee supported the authorization of a compliance officer position for our office. And what this position would do is verify the abatement schedule of existing hazards, making sure that nothing falls through the cracks. And this is a critical position that the office is seeking funding for during this fiscal year.

CONTRACT SERVICES

Third, as we have discussed a little bit already today, is fire safety. And we are seeking funding for a fire safety specialist.

In fiscal year 2009, the Office of Compliance requested the authorization and funding for an FTE for these services. Having re-evaluated our needs and really taking into consideration the economic difficulties that are facing us today, we are seeking only a portion of that funding and not the FTE. We are looking to see how we can meet the needs with contract services.

What this position would do is ensure that longstanding fire hazards are abated and that they are done so timely.

Outside of not renewing the request for an FTE for the fire safety specialist position, the Office of Compliance has also not renewed requests for the trainer and the ombudsman that we did request in fiscal year 2009. We are mindful of the situation, the financial crisis that the country faces. We are mindful that this year is not the year for the "nice to haves," and we are presenting to you what we critically need.

We have also taken efforts to share services with sister agencies to reduce our costs in our mediation and our hearing program. And that effort is very successful.

So we continually strive to provide the needed services with minimal, though adequate, resources. And it is our hope that this budget request that we submit to you reflects such effort.

PREPARED STATEMENT

I thank you for the opportunity to appear before you, and I welcome any questions that you have.

Senator NELSON. Thank you.

[The statement follows:]

PREPARED STATEMENT OF TAMARA E. CHRISLER

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

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

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

For our fiscal year 2010 operations, the Office of Compliance is requesting \$4,474,475—an increase of \$402,475 or 9.88 percent over our fiscal year 2009 funding level. Like all of us in this room, we are mindful of the economic difficulties confronting the country and the Federal Government. We know that this Subcommittee faces real fiscal constraints. Accordingly, we are not renewing our request for a number of items from our 2009 appropriations request: namely, three FTEs—the fire safety specialist, the trainer, and the ombudsman. We recognize our responsibility to make more efficient our operations to meet the government's current fiscal challenges while at the same time fulfilling our mission.

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

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

Looking forward, we want to continue to report accomplishments and meet our statutory mandates, but we cannot accomplish our mission without adequate resources. In light of the current economic situation, we are not requesting three FTEs

that we asked for in the last fiscal year. But changed circumstances have highlighted the need for us to add one new position to our ranks.

Since 1997, the agency has benefited from the services of an employee on a non-reimbursable detail from the Department of Labor. This long-time OSH program supervisor and special assistant to the General Counsel is a certified industrial hygienist with over 30 years' experience in occupational safety and health matters. His duties include supervising our safety and health inspectors, working with outside OSH experts, and providing expert technical advice to the General Counsel and guidance to OGC staff regarding the application of OSHA standards. In short, he is critical to our operation. But this detailee plans to retire in January 2010, and it is unlikely that we will be able to replace him with another non-reimbursable detailee. Moreover, these types of duties are best performed by an employee on staff with the agency, who is accountable to the very agency where the duties are performed. For these reasons, we are requesting the authorization for and funding of an OSH program supervisor FTE. Because the current supervisor will not retire until calendar year 2010, we have presented our request with a prorated amount of funding.

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

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

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

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

In an effort to reduce costs for our mandated dispute resolution program, the OOC has entered into an interagency Memorandum of Understanding with the Merit Systems Protection Board ("MSPB"). This Memorandum allows the agency to utilize

MSPB mediators and hearing officers to conduct proceedings that are required by the CAA. Further plans are being made to enter into additional interagency agreements with other agencies. Such agreements allow the OOC to reduce costs because they typically provide for more favorable rates for contracted services. The OOC realizes that our mediation and hearing services contain certain elements beyond our control: the agency cannot dictate either the number of claims presented for mediation or the number of complaints filed for hearing. We do have control over the costs for services, however, and it is those costs that we are continually working to reduce.

CONCLUSION

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

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

Senator NELSON. Six or seven minute questions? Seven?

Senator MURKOWSKI. Yes.

Senator NELSON. Seven, okay.

Well, first of all, as I have not had an opportunity to visit with you, Ms. Chrisler, I have got a couple of questions. I have already spent some time grilling poor Mr. Ayers, but I will hold that for second.

BIENNIAL INSPECTIONS

But I understand that your organization conducts what are called biennial inspections of the legislative branch facilities. Now are there biennial inspections conducted on the rest of the Federal Government, or is it just on the legislative branch, if you know?

Ms. CHRISLER. Well, the way that the Congressional Accountability Act was written was inclusive of a mandate that our office conduct inspections of the covered community once every Congress. So, yes, we are required to conduct these once every Congress.

Whether the OSH office and the executive branch or in the private sector have a similar mandate is something that I am not aware of. But I do know that this is the way that the CAA was written for us.

Senator NELSON. Well, I don't know that that is what was intended, but we are going to take a look into that because it does seem, from what we are hearing from other branches of Government, that we are being held to a higher standard. I don't know that we ought to be held to a low standard. I am not suggesting that.

But there ought to be a comparable standard. Safety is just as important in the other branches of Government as it is in ours. And so, I think that is something that we are going to have to look into because if we are being held to a higher standard, it can affect the budgets, obviously.

But I don't want to imply in any way that we don't want a high standard. We just want to make sure that there is equity and fairness as well as comparability in the standards that other branches are held to.

Ms. CHRISLER. If I may, Mr. Nelson?

Senator NELSON. Sure.

Ms. CHRISLER. It is my understanding that the standard, the OSH standard that is applied to the legislative branch, is the same standard that is applied to the private sector. Not the executive branch. The way that the CAA was written was that the standards, same standards are applicable in different manners, and the manner that it is to be applied to the legislative branch is that of the application to the private sector.

GOVERNMENT BRANCH COMPARABILITY

Senator NELSON. Okay. What do you know about the difference, let us say, that would apply to the executive branch? I know it is a different branch of Government, but once again, comparability, I think, would be important here. Do you know what the standard is there?

Ms. CHRISLER. I do know that the way that the CAA is written, the comparability was to that of the private sector. As I understand it, the application of the standard to the executive branch is less restrictive than it is to the private sector. But as the CAA was written, Congress chose to apply the standard to itself as it does to the private sector.

Senator NELSON. I understand that.

Ms. CHRISLER. Okay.

Senator NELSON. We have old buildings, and we have new buildings. Are the same requirements applied to, let us say, the Jefferson building and the Russell building as for fire and safety as they might be in the case of a new construction?

Ms. CHRISLER. As I understand it, the standards are what they are. What our office does consider is the historicity of the buildings, the significant challenges that we have with respect to very old buildings, historical buildings, beautiful buildings that are significant in our Nation's history.

So we recognize that. We understand the challenges that are faced with respect to addressing some hazards that may exist for virtue of the building's age. And we work collaboratively with the covered community. We work very well with the Office of the Architect of the Capitol.

And in understanding the challenges and the hurdles that we face in addressing the hazards, we apply the standards. Yes, so we do take into consideration some of the challenges that we have because of the age of the buildings.

Senator NELSON. And you may not have the specifics on this, but, for example, addressing the egress stairwells in the Jefferson building, which would cost more than \$12 million to require, causing major disruption to both staff and visitors when it is questionable whether it is necessary, when 98 percent of the building is equipped with sprinklers, 100 percent of the building is equipped with smoke detectors, and it is fully staffed with security, Government security during the occupancy periods.

HISTORICAL AUTHENTICITY

How does that square with ordinary requirements for, as you say, historicity?

Ms. CHRISLER. What I understand with respect to the Jefferson building is that it contains the page school, the House page school. And one of the hazards that our office has discovered is that there are egress challenges with respect to the students exiting the building from the page school if there were to be a fire inside the school.

With respect to abating the hazard, our office is working collaboratively, again to ensure that before the permanent abatement can take place that interim measures are put into place. So we understand that the abatement may not be able to be achieved immediately. Though the hazard still exists, we have recommended and suggested and are working toward implementing interim measures to protect the safety of the students and the visitors to the building while other considerations are being made.

Senator NELSON. Okay. Well, thank you very much. My time is about out.

Senator Murkowski.

HIGH PRIORITY PROJECT FUNDING

Senator MURKOWSKI. Well, we will keep you on the hot seat here for a few more minutes, Ms. Chrisler.

I am trying to understand exactly how much flexibility there is built into all of this. As I understand, the AOC puts the highest priority—and I appreciate, Mr. Ayers, you kind of walking through how you prioritize what you are dealing with as you look at these projects. But we understand that AOC puts the highest priority on funding for the projects that have received a citation.

I also understand that there have been over 9,000 findings in the draft report for the 110th Congress for the last biennial inspection. Nine thousand is a lot to prioritize. And the question that I would have, and it follows on what Senator Nelson has addressed with regard to the Jefferson building, do you have flexibility to either work with the Office of the Architect here to not issue that citation so that you can work through some interim measures?

HAZARD FUNDING—NOTIFICATION PROGRESS

Are you required to issue a citation first and then ask questions later? How do you proceed with that?

Ms. CHRISLER. It is our intent and our effort to work very hand-in-hand.

Senator MURKOWSKI. But what are you required to do?

Ms. CHRISLER. We are required to make Congress aware of existing hazards.

Senator MURKOWSKI. By way of a citation?

Ms. CHRISLER. No, not necessarily.

Senator MURKOWSKI. Okay.

Ms. CHRISLER. So the finding that is made, the hazard that is uncovered is—we tell the employing offices about their hazards through a finding. Once the finding is shared, we work with the employing office to abate the hazard. So that the citation is not something that is required unless there is no cooperation from the

employing office, unless there is not significant improvement toward abating the hazard.

ISSUED CITATION NOTIFICATIONS

Senator MURKOWSKI. So, in 9,000 cases, there was either not cooperation or there wasn't significant improvement?

Ms. CHRISLER. There were 9,000 hazards that were uncovered. There were not 9,000 citations. In the past—

Senator MURKOWSKI. I stand corrected. Yes. Of those 9,000 findings, how many citations do you figure were issued?

Ms. CHRISLER. Well, what I can tell you, that in the last 6 years, I believe our office has only issued 16 citations. So, within the 9,000, it is probably less than 10.

Senator MURKOWSKI. So there is the ability to work through these?

Ms. CHRISLER. Right.

Senator MURKOWSKI. There is an effort to provide for some level of abatement. So what we are working to do then is to prioritize those areas where there is highest risk, as opposed to chronologically we need to take care of all these things because they have been sitting out on a list for too long.

But if you have got a high-risk issue, a life safety issue, that is prioritized as more immediate. Is that a correct statement?

Ms. CHRISLER. I beg your pardon?

Senator MURKOWSKI. Is that a correct statement, that the issue would be given higher priority, based on a risk assessment?

Ms. CHRISLER. What we—what our role is, is to discover the findings and provide the information and work with the employing office to abate the hazards. What we are hoping to do, what our general counsel's office is striving for, is to be of assistance and a resource in staging the abatement of these hazards.

So the employing office would make the determination as to which hazards they can abate first, based on a number of considerations. And what we are looking to do as a resource and as a tool and servicing the agency is to help them in staging their abatement.

HAZARD ABATEMENT

Senator MURKOWSKI. Well, then let me give you a specific example. It is my understanding that the AOC is working to remedy a citation. This is a citation in the Cannon building, and it is going to be relatively expensive. I don't recall exactly how much it was, but it was a considerable amount. And yet, the Cannon building is scheduled for whole building renovation in a couple of years.

Why in the world would we spend the money to fix this now when 2 years from now, we may have a whole building renovation?

Ms. CHRISLER. Sure, and this is actually the example that you use of something that we were just discussing. As much as—

Senator MURKOWSKI. \$7 million.

Ms. CHRISLER. Pardon?

Senator MURKOWSKI. Apparently, it is the Cannon stairwell enclosure for \$7 million?

Ms. CHRISLER. Yes. And this is something that our office has discovered as a hazard and is working with the appropriate personnel to abate the hazard. Hopefully, in the—

ABATEMENT CLARIFICATION

Senator MURKOWSKI. What do you mean when you say “abate the hazard?” What will you do for this enclosure?

Ms. CHRISLER. It depends on the discussions that the technical experts have. I don’t know if it is because of the renovation that will be occurring in 2 years if it is prudent to do a complete abatement or if it is prudent to incorporate interim measures to provide for the safety of the employees and visitors while the renovation is upcoming and pending.

So there are different steps, and we are working to make sure that the smart thing and the right thing is done and not that we are making any improvements or abating the hazard to say, okay, this is done. Now let us all tear it down because we are going to build the building again.

Senator MURKOWSKI. Well, I would hope that we would agree that spending \$7 million is not the prudent thing to do if we are going to do a whole building renovation in 2 years.

Ms. CHRISLER. Well, certainly, our office has been engaged in discussions with the folks that will be—

Senator MURKOWSKI. Again, this gets me back to my question about how much flexibility you have. You have got a citation. You are trying to work on it. But you know that in a very short time period here, you are going to be doing a wholesale remodel.

And so, it really doesn’t make much sense to do a full-on roof here. Let us just patch the roof until we can really address the bigger problem. Are we in agreement that that is not the approach that we need to take?

Ms. CHRISLER. Absolutely. And we are all—we, the Office of Compliance, are all in favor of finding an appropriate and a safe interim measure depending on the circumstances. And in the example that you provide, the circumstances include a complete building renovation. So we would work toward providing a safe mechanism in the interim.

Senator MURKOWSKI. Ms. Chrisler, can you tell me when this particular citation was actually issued? Has this been outstanding for a while?

Ms. CHRISLER. This has been outstanding since 2000.

Senator MURKOWSKI. Okay. Mr. Chairman, my time is up.

Senator NELSON. Thank you, Senator.

Senator Pryor.

Senator PRYOR. Thank you, Mr. Chairman.

And actually, believe it or not, I have a lot of questions for Mr. Ayers here.

But since these other two have asked about you, I do have a few follow-ups on what they said. I hope it doesn’t take all my time. But let me try to move very quickly.

CANNON BUILDING STAIRWELL HAZARD

Just for my—I am new to the subcommittee, and I am trying to get a handle on this, and I apologize for this. But the example that

we have been talking about, the stairwell in the Cannon building, what is the hazard there?

Ms. CHRISLER. They are open stairwells that don't block off, if you will, the fumes and smoke and fire if there were to be a fire in the building. So enclosed stairwells provides extra protection and ensures that there is—ensures a cutoff so that the fire is contained, smoke is contained, and the fumes are contained so that it doesn't spread as quickly.

Senator PRYOR. And do you have a design on a fix for that?

Ms. CHRISLER. I do believe that there is a design for a fix. Correct.

Senator PRYOR. Okay. And you talked about these 9,000 findings.

Ms. CHRISLER. Right.

CATEGORIZED ITEM BREAKDOWN

Senator PRYOR. Are there large categories of items you are looking for, like fire issues and like plumbing and whatever type issues? ADA-type compliance. I mean, are there broad categories?

Ms. CHRISLER. Yes. Yes, we go in and we look for everything. We look to—

Senator PRYOR. And do you have a breakdown of all that and what the findings are? As I understand it, you go through each office even and look and see if maybe too many things are plugged into one electrical outlet.

Ms. CHRISLER. Right.

Senator PRYOR. Is it your experience that when you bring those to the attention of the individual offices, they get fixed?

Ms. CHRISLER. Absolutely. There are in the previous Congress—if you will just indulge me for a moment. There were a number of hazards that were discovered that are abated right on the spot.

In the 110th Congress, there were 63 percent of the hazards that were open were closed, and 80 percent actually of the findings that were—the hazards that were found in the Senate, 80 percent were abated. And some of them, a large majority of them are abated right on the spot.

Senator PRYOR. Okay. And, but it does sound like there are some hazards like the Cannon stairwell that doesn't go away, that you have to just at some point work through that?

Ms. CHRISLER. Yes.

Senator PRYOR. And I think, let us see, that may be all I had on you.

CAPITOL POWER PLANT

So if I have a few more minutes, Mr. Ayers, let me ask you. Let me start with one of the big-ticket items that I know you are working on in terms of a long-range plan, and that is the Capitol Power Plant. Tell me, if you can, one of your requests is to convert maybe one boiler from, what, coal to gas. Is that right?

Mr. AYERS. That is correct.

Senator PRYOR. And what will the mix of the fuel be then at that point that will be available to the Capitol, you know, the source of the energy?

Mr. AYERS. We will be able to burn 100 percent natural gas with sufficient backup capacity.

Senator PRYOR. Okay. And is there a long-term plan on the Power Plant? I mean, do you know what you want to do with that? Or do you just want to keep it and convert it to gas, or are you looking for other options? Give us the update on that.

Mr. AYERS. Well, we have a team of consultants in place today that are looking at a 20-year and longer outlook for the plant. We have developed that scenario looking at 16 different possible options of what to do with the plant in the future. That study is about 75 percent complete.

We are currently having it peer reviewed by the National Academy of Sciences, and that peer review is scheduled to be finished this month. So we will take those peer review comments, we will fold them back into the report and then finalize it. This will be completed in another 2 or 3 months after that.

POSSIBLE AVAILABLE OPTIONS

Senator PRYOR. Okay. And these, what did you say, 16 or 17 options?

Mr. AYERS. There are 16 different options that they are currently looking at.

Senator PRYOR. Does that mean like one of them might be, say, for example, geothermal? One of them might be just going all natural gas? One of them might be to totally get away from the Power Plant completely? I mean, what are you talking about there?

Mr. AYERS. Things like co-generation of electricity, things like biofuels.

Senator PRYOR. And long term, are you looking at replacing the heating and air systems throughout the Capitol complex?

Mr. AYERS. Well, certainly, we heat and cool the Capitol campus through a centralized distribution system. The Power Plant itself provides all of the heat through steam and chilled water for cooling all of the buildings on the Capitol campus.

We will send that steam and chilled water out through every building, and then each of those buildings will take that steam and chilled water and run it through mechanical systems to heat and cool each space. So, ultimately, over the course of time, all of these mechanical units have a certain lifespan, maybe 20 or 30 years, and we will be replacing those.

For example, right now, we have recently awarded a contract to replace the mechanical equipment in this building, the Dirksen building. You will see that starting here in the next couple of weeks.

Senator PRYOR. You just heard Ms. is it “Chry-sler” or “Chris-ler?”

Ms. CHRISLER. It is Chrisler. Thank you.

CITATION-RELATED PROJECTS

Senator PRYOR. Chrisler. Sorry about that. Ms. Chrisler, just heard her testimony a few moments ago. How much money in your proposed appropriation, how much money are you requesting for citation-related projects?

Mr. AYERS. Just give me a moment to add that. I would suspect it is over \$50 million.

Senator PRYOR. Okay. And I may have that breakdown. I don't see it. But what are some of the big-ticket items there?

Mr. AYERS. The seven highest projects on our consolidated priority list are for citations. The first one is the utility tunnels that I spoke of earlier.

Senator PRYOR. Right. Right.

Mr. AYERS. That is \$45 million for that program. The next biggest one is for ADA compliance issues in the restrooms of the John Adams Building at \$3 million. And some door issues as well in the John Adams Building at \$1.5 million, some egress improvements in the Thomas Jefferson Building, design work for about \$2 million.

ENERGY CONSERVATION

Senator PRYOR. Let me ask one question about energy conservation, and this will be my last question because I am out of time here. But I think you are requesting \$11 million worth of projects in fiscal year 2010 for energy reduction. How long does it take that to pay for itself?

Mr. AYERS. Each of those has an individual payback. There really is no good rule of thumb. So a photovoltaic system is going to have a far different payback than equipment replacement. I have to go specifically with each individual project to get you an accurate figure.

Senator PRYOR. But you can't say, well, we are going to spend \$11 million, and then we will make that money back over a 3-year period? You don't have it broken down that way?

Mr. AYERS. We do have it broken down that way. I don't have that at my fingertips, but I would be happy to submit that for the record. For our projects we do a comprehensive lifecycle projection to determine if it is an appropriate payback. If it is not, we don't do it.

Senator PRYOR. Right. Mr. Chairman, thank you.

[The information follows:]

Payback periods for each project are summarized in the following table. It is important to note that some fiscal year 2010 requests are for construction and others are for design. The projected simple payback period for construction projects (numbers one, two, three, and five in the table below) totals \$9.5 million, and is for a period of less than 3 years.

FISCAL YEAR 2010 CIP—PROPOSED ENERGY PROJECTS SUMMARY

Project Title	Project Cost	AOC/AE Design Fee	Energy/Water Cost Savings	Energy Savings		Economic Summary		
				mMbtu Savings	Percent Reduction (Fiscal Year 2003 Complex)	Simple Payback	LCCA ¹	SIR ²
Computer Server Closet Cooling, Phase 1	3 \$2,010,000	\$196,789	\$1,593,838	57,986	2.09	1.3	\$24,082,037	12.7
Computer Server Closet Cooling, Phase 3	3 4,430,000	429,533	1,246,189	45,332	1.63	3.6	15,911,191	4.5
HVAC Controls Replacement	3 2,260,000	336,130	618,675	17,872	.64	3.7	6,876,642	4.0
Economizer Additions to Air Handling Units	8,601,521	380,000	809,050	55,000	1.98	10.6	2,571,247	10.6
Capitol Police Jurisdiction Energy Saving Projects	3 800,000	116,872	56,000	2,713	.10	14.3	.....	.....
Botanic Gardens Sustainable Design	.....	3 380,000	.....	.....	.....	.....	.....	.....
Total	18,101,521	2,289,324	4,323,752	178,903	6.44	.....	.....	.....

¹LCCA is the sum of the present values of initial investment, O&M, replacement, and energy and/or water costs.
²SIR (Savings to Investment Ratio) is the ratio of the total savings to the total investment cost over the life cycle of the project.
³Indicates request amount.

Notes:
 Projects are ranked by priority according to LCCA (Life Cycle Cost Analysis) in descending order.
 LCCA and SIR calculated with NIST's Building Life Cycle Cost Program (BLCC 5.3-08), in accordance with 10 CFR 436, Subpart A.
 Combined simple payback of Projects 1, 2, 3 and 5 is 2.70 years.
 Project #4, Economizer Additions to Air Handling Units, is currently proposed for design in fiscal year 2010. Projected simple payback is 10.6 years.

Senator NELSON. Thank you, Senator.

CANNON STAIRWELL RENOVATION

Mr. Ayers, in that money that you have set aside for citation matters, do you have any money in there for the Cannon stairwell?

Mr. AYERS. No, sir. I think the Cannon stairwell money has already been appropriated.

Senator NELSON. But not spent apparently?

Mr. AYERS. I believe——

Senator NELSON. The project hasn't——

Mr. AYERS [continuing]. That work is underway now.

Senator NELSON. Oh, the work is underway?

Mr. AYERS. I am sorry. The design is underway. The physical construction is not underway yet.

Senator NELSON. Well, then if the design is underway, construction hasn't begun, what is the possibility that that design will mesh with what overall renovation is going to be required for the Cannon? Will it be totally consistent with it? Will it be something that will fit in, or will it be outside the range of what the remodeling is, if you know, Ms. Chrisler?

Ms. CHRISLER. The question, Senator, is whether the design meets——

Senator NELSON. Yes, if we are spending money for design and we are going to redo the building in 2 years, are they copasetic? Will the design fit in with what is going to be done overall, or do we even have the overall plan, design plan for the remodeling, the total remodeling in place to compare it to?

CANNON HAZARD ABATEMENT

Ms. CHRISLER. Sure. Our office's involvement in the design of or the abatement plan is focused on ensuring that the hazard is abated or that interim measures address the hazard that is found. Now what makes sense to me is that fixing the stairwells will mesh with the overall renovation, and doing it early makes sense.

But whether the particular details of the design plan that is in place is very difficult for me to answer. That is not something that is within the area of our expertise. Our expertise is in providing technical assistance in abating the hazard.

Senator NELSON. Well, will you have looked at the design that is being developed right now and being paid for for that abatement? Will you look at that before the design is completed?

Ms. CHRISLER. We certainly hope to be included in the design process, and we hope that our input is requested and received.

DESIGN ABATEMENT RESOLUTION

Senator NELSON. So you are not really throwing a flag, like a referee throws a flag? You are going to make certain that whatever the design is works and cures the problem that you have identified?

Ms. CHRISLER. As I say, we work very collaboratively. So we welcome the opportunity to sit down and talk about the abatement, what is necessary, what is being planned, what is in place, and how those two things can come together to ensure safety.

Senator NELSON. Mr. Ayers, will we be able to deduct from the total remodeling cost of the Cannon building the cost of the repair of this stairwell? Will it be consistent? Will it be compatible? Do you know at this point?

Mr. AYERS. I think we certainly can deduct that, and certainly, another option is to postpone that actual construction work and roll it into that comprehensive building renovation if ultimately—

Senator NELSON. Will she pick up the flag if you do that?

Mr. AYERS. She might. We work pretty well together.

Senator NELSON. Oh, okay. I think everybody understands where we are going with this, and I think you understand and I am sure you share the view that it doesn't make any sense to make a pie a piece at a time here when we have an opportunity to do the whole thing.

Ms. CHRISLER. That is right.

STAIRWELL CITATION RANKING

Senator NELSON. Yes. Okay. Well, maybe enough on that, but I think it is enlightening us. And I hope that in working together, the 30,000-foot view down is looked at as well as the on-the-ground view because it is important. It would be important in any particular budget, but particularly this one.

So the 16 citations over 6 years, if you were to rate them in priority, how much would you rate the stairwell issue in Cannon? How high would that be within those 16 citations?

Ms. CHRISLER. If you will allow me to confer?

Senator NELSON. Oh, sure. Sure.

Ms. CHRISLER. Thank you.

Of the 16 citations, the most important are the fire hazards, as we can all imagine. There are about seven or so of the citations that are fire hazards. Ranking those hazards within themselves is difficult to do because a fire hazard is significant in itself. But of the 16, we would say about 7 are those that are fire hazards.

Senator NELSON. How many fires—apart from some that were lit by someone in the Capitol Police over here a few years ago, how many fires have we really had in the Senate office buildings and in the House office buildings, if you know?

Ms. CHRISLER. I do have some understanding of some of those numbers. I would be happy to provide them for you for the record. Within the last few years, without including the one that you mentioned, there appear to be two within the last couple of years.

In 2005, there was a Capitol, the fire in the Capitol. In 2005, there was the substation explosion and fire at the Power Plant.

Senator NELSON. Okay. How extensive was the fire in the Capitol? How much damage was done, and how at risk were employees there?

Ms. CHRISLER. I am happy to research that for you and provide that for the record.

Senator NELSON. Was it significant, or was it de minimis? You can research it. I am not trying to put you on the spot.

Ms. CHRISLER. I appreciate the opportunity to do that. Thank you.

[The information follows:]

See Appendix A on pages 52–56 for a complete listing.

CANNON VERSUS RUSSELL STAIRWELL COMPARISON

Senator NELSON. And in terms of the stairwells, without running the risk of more citations here, how would the stairwell in the Cannon building compare with the stairwells, let us say, in the Russell building?

Ms. CHRISLER. They are similar. The similarity is that they are both unenclosed. So the same risks that are involved in having an unenclosed stairwell in Cannon are the same risks that are involved in the Russell building.

Senator NELSON. Well, if I might just ask this question as a follow-up? Why is it a more significant risk to have a citation in Cannon, but not necessarily in Russell?

Ms. CHRISLER. I believe that there is a citation for the stairwells in the Russell building as well.

Senator NELSON. Oh, there is? Okay. But we are going to take care of the House Members before we take care of the Senators? Thank you. My time is up.

Senator MURKOWSKI. I just can't let a good thing drop here. I understand that here on the Senate side, the Rules Committee has asked for some kind of a blue ribbon panel to come together to actually review the situation with the citation, the Russell stairwell, recognizing that it is a 100-year-old building, and it is made out of granite or marble or something pretty impervious to fire. That it is fully alarmed, fully sprinklered.

CITATION FLEXIBILITY

And I guess it gets back to my initial question, which is about flexibility when we issue citations and then, how we respond by way of abatement. At what point in time does the reasonable and prudent standard come into place?

Ms. CHRISLER. Yes.

Senator MURKOWSKI. And I will give you an example, and I am going to detract for just a minute. We dealt with a situation in my home State where an individual built a hotel out of ice. And he was shut down by the fire department because he didn't have a sprinkler system in it.

Now, think about it. In a way, and I don't mean to be trite and flip here with safety, but I think we do need to appreciate that if we have made reasonable and prudent efforts to make sure that the life safety issues are fully addressed, if we haven't checked off the boxes that somebody has detailed in an office somewhere else and we are still not in compliance, and then we are forced to spend \$7 million, whether it is the Cannon or whether the Russell, I guess I get a little frustrated because I want us to exercise good common sense.

I want us to have buildings that are strong and safe and are beautiful and are historic, but I think we also need to use a little bit of common sense in how we address the issue. And we have been going on about the stairwells for a long time, Mr. Chairman. But why would we move forward with a blue ribbon panel to look at the issue in the Russell and then on the House side make a decision that we are going to go ahead with a similar project?

HOUSE BUILDINGS VERSUS SENATE BUILDINGS

You have indicated, Ms. Chrisler, that you are working together to deal with some kind of abatement situation, but yet if you guys are moving forward with design and you are asking or you are saying we would be happy to be included at the table, it doesn't sound to me like we are all really talking here.

And I don't know whether that is a rhetorical question, or just putting it out on the record, I would be happy to hear responses from either one of you. But I am curious to know as to why we would treat the House building different than the Senate building on this.

Mr. Ayers, do you want to comment on that, why we would be treating them different?

Mr. AYERS. Well, I do know that we certainly move those projects forward at different times, as they are separate and different appropriations. So they may be moved forward just a little bit at different times. The Cannon building was funded before the Russell building.

In the Russell building, as we moved forward and requested our authorizing committee's authorization to spend that money, they asked us to take a step back and take a second look at this design. They really questioned whether this was an appropriate use of funds and an appropriate interpretation of the building codes, and they warned us to assemble a blue ribbon panel to look at all of the issues surrounding this, and advise them with this panel whether this work is required or not.

I received a letter from the chairman and ranking member of that committee this week, and we will be moving now to undertake that blue ribbon panel expeditiously.

Senator MURKOWSKI. So does that kind of put that particular citation on hold, in your opinion, as this blue ribbon panel reviews this?

ENERGY PROJECTS

Mr. AYERS. From my perspective, it does. Yes.

Senator MURKOWSKI. Let me ask you a question about some of the energy projects that we have going, following on Senator Pryor's comments. This relates to the boiler. As you know, I am on the Energy Committee, and most of my day is focused on energy and how we can be reducing our emissions and be responsible stewards of the environment. I am pleased with the direction that we have been able to take in reductions of emissions and our carbon footprint.

But if I understand until last year, coal was used for about 45 percent of the fuel mix. Then the decision was made to discontinue the use of coal at the Power Plant, and you are retrofitting one of the seven boilers this summer. I am told that by next year, you will be able to operate at 99 percent using natural gas. Is that correct?

Mr. AYERS. That is correct, with three caveats, if I could?

Senator MURKOWSKI. Okay.

Mr. AYERS. Those caveats are, first, that our utility provider, and our gas provider needs to make some improvement to the service

line to the Capitol Power Plant to enable us to do that. We expect that to be done this summer.

Second, if we don't have a severe winter, we will be able to achieve that 99 or 100 percent. Similarly, if we have no equipment outages, we will be able to achieve that.

So with those caveats, yes, that is correct.

Senator MURKOWSKI. I am then told to get to a clear 100 percent level of using natural gas year-round that we need an additional \$10 million in the fiscal year 2010 budget to retrofit another boiler. Is that correct?

Mr. AYERS. That is correct.

Senator MURKOWSKI. So I just want to make sure that we all understand that for one last percentage, so that we can say we absolutely, positively are not using coal, we are going to spend \$10 million to retrofit this last boiler?

Mr. AYERS. I think that 1 percent, your analysis is correct, as well as, similarly, in powerplant business, it is not realistic to assume all of your equipment is going to run all of the time. It just doesn't happen, and powerplants don't operate that way.

But if it is acceptable to the Congress that we fall back to burning coal and fuel oil if we have an equipment issue, then we could save \$10 million.

Senator MURKOWSKI. Save \$10 million. And if we have got a tough, cold winter, to have that in reserve. I just wanted to make sure that I understood that.

My time has expired, Mr. Chairman.

Senator NELSON. Thank you.

ARCHITECT OF THE CAPITOL/GOVERNMENT PRINTING OFFICE SIMILARITIES

Mr. Ayers, both the AOC and the Government Printing Office (GPO) provide a number of similar industrial-type functions, for example, electrical, carpentry, masonry, and those related functions. And since the AOC is already using space at the GPO, is it possible that somehow that you could achieve economies of scale by combining some of these functions?

Mr. AYERS. That is an excellent idea and, quite frankly, one I had not considered before. If you would give us an opportunity to work with the Public Printer and do an analysis of the pros and cons of that, we would be happy to.

Senator NELSON. Sure.

Mr. AYERS. A great idea.

Senator NELSON. Well, occasionally, we come up with one. So it could possibly at the same time free up some space in the Senate and the House office buildings as well. What we don't want to do is we wouldn't want to see a decline in service, but certainly I would hope that you could take a look at what that would mean and what the effect would be of some combination or sharing the responsibilities.

Mr. AYERS. I am happy to do that.

BENEFIT/RISK ASSESSMENT

Senator NELSON. If the committee that you are putting together comes back and says that it is not the best expenditure of money

in terms of risk assessment, and I always try to look at things in cost benefit/risk assessment, through that lens, what would that mean? Would that mean if they said that on the stairwells that it is not worth doing that, the risk is not great enough to justify that kind of expenditure, that you would make the decision not to do it?

Or what would be the next step in the process? The Rules Committee? I happen to sit on the Rules Committee. So would it come to us? What would be the next step?

Mr. AYERS. Yes, I think it would come to the Rules Committee. They are the requester of this blue ribbon panel. So we would assemble that panel and facilitate that and deliver that deliverable back to the Rules Committee, who ultimately, I think, will certainly work collaboratively with all of the stakeholders to come to a common course of action.

Senator NELSON. And I am not trying to prejudge the outcome of whatever that committee does, I have no idea what they are going to determine. But as a hypothetical at least, that is what could happen. Would that have any effect on the Cannon building and the stairwell there?

Mr. AYERS. Well, I think it could. I think—and maybe that is something Ms. Chrisler and I should talk about in the coming days about this blue ribbon panel, which I don't believe she knows about. We have not transmitted that letter to her.

So maybe that is something she and I should talk about in the next couple of days and get back to the subcommittee on how that might affect the Cannon building.

Senator NELSON. Sure. I think that is a good idea. I assume that would work well with you as well, Ms. Chrisler?

Ms. CHRISLER. It certainly would. Thank you.

Senator NELSON. Sure, sure. Senator Murkowski may have asked you when you expect to have the report. I don't know that I heard when you expect the committee to have completed its work?

Mr. AYERS. I think assembling a group of blue ribbon experts like that, from my experience, is something that will take at least 6 months to pull them together, develop a report, have that report reviewed a couple of times and, ultimately, agreed upon. Usually, it is a several month effort.

PROJECT RECOMMENDATION TIMELINE

Senator NELSON. So in approximately 6 months, we ought to have the suggestions that they are going to make regarding many of these different projects or their overall view of what risk assessment should consist of?

Mr. AYERS. Yes, sir.

Senator NELSON. Okay. Let us see, I don't know that I have any further questions.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I think I am down to the cats and dogs collection here, too. Just a few questions all over the map here.

STAFF-LED TOURS

Let us start with the staff-led tours because I think when other Members found out that I was part of the legislative branch appro-

priations, they all came to me with their complaints about what is going on with the staff-led tours.

I want to start, Mr. Ayers, by commending those of you that are involved and the efforts of the Capitol Visitor Center. When you opened that facility, you figured out how to move mass numbers of people through, I think, in a very efficient way. You are to be commended for that.

Mr. AYERS. Thank you.

Senator MURKOWSKI. And so, I am a little bit hesitant to even bring it up, but that is what these forums are for.

I have heard concerns from other Members that they feel that on some of the staff-led tours, the staff members have been treated in a discourteous manner by those that are in the Capitol Visitor Center, the "red coats" as we call them, and that there has not been sufficient oversight in making sure that people are saying the right things. I have heard numerous stories, and I don't know that they bear repeating here.

My question to you is what are we doing to make sure that all of our visitors, whether they come through the CVC or through our respective staff-led tours, are being accommodated respectfully? Because I think it does really reflect back on all of us, and the public doesn't make the distinction as to whether it is staff-led or CVC-led.

CAPITOL VISITOR CENTER STAFF MANAGEMENT

Mr. AYERS. That is really an important question. We really strive to hire the very best people that are both knowledgeable in the history of the Capitol building, are knowledgeable in visitor services and learning techniques, but most importantly, are personable and respectful of visitors. Clearly, treating someone with disrespect or some other fashion is obviously unacceptable.

We are doing a couple of things. One, we are really trying to hire the very best people. Second, when we do get feedback about a particular behavior that a guide displayed or visitor assistant demonstrated in a particular tour, every single day we get that group together from 8 to 8:30 in the morning in one of the theaters. And our management team comes in and sort of describes or sort of conducts a hot wash from the previous day. Here is this, and here is that, and here is how we can say that a little better and adjust your speech here.

So I think that is important. And on a broader scale, Ms. Rouse, our Chief Executive Officer for the Capitol Visitor Center, is holding monthly listening sessions with the Congress. These sessions are open to congressional staff and Members to discuss what's on their minds or has had a good experience or bad experience. Once a month we are getting together with all of them and listening to what those concerns are so we are sure we will hear them and we can fold those back into the visitor services operation.

CAPITOL VISITOR CENTER FTE STAFFING REQUEST

Senator MURKOWSKI. Now do I understand correctly that with your request, you are seeking another 25 employees?

Mr. AYERS. That is correct.

Senator MURKOWSKI. What areas would they be staffing?

Mr. AYERS. These are 25 employees for the Capitol Visitor Center. First is five red coats or guides. Today, we think the number of tour guides is low because our tours at our peak periods will have about 50 people on each tour. We think that is way too many to have an effective and engaging tour.

So the five new tour guides will help reduce that number of people on a given tour. We think that is really important for quality of service.

On top of that, there are 15 visitor assistants. And I think the key there is way finding, one, and two—

Senator MURKOWSKI. I have to ask about way finding.

Mr. AYERS. Sure.

Senator MURKOWSKI. Because there is a new person at the base of the escalator as you go from the little trolleys up north. I haven't any idea what that person does except direct traffic. And we have got all kinds of security that is around, not that it is particularly their job to direct traffic. But why are we paying a person to perch at the base of the escalator?

Mr. AYERS. I think you really hit the nail on the head that much of it is a security concern. Instead of posting a police officer there, which used to be the case for a very long time, we are now posting that with a visitor assistant.

Senator MURKOWSKI. I think we still have police there.

Mr. AYERS. No.

Senator MURKOWSKI. No? Okay, I will double check. I go through there frequently.

Mr. AYERS. There are really two reasons that that person is there. First and foremost, I think it is a Member service. If we had all of the staff-led tours going up those escalators and moving through where those bank of six elevators are right there, we believe that it is going to be too congested, and Members will not be able to get to votes when they need to move quickly and get on an elevator and up to the floor.

That bottleneck right there is too much for staff-led tours or most of the staff-led tours to go that way. So that person's job is to see everyone who gets off the subway and everyone who has a CVC badge on that, at that end of the tunnel, are directed to the doors of the Capitol Visitor Center.

Senator MURKOWSKI. We couldn't use a sign?

Mr. AYERS. A sign could do that. From our experience, it would be ignored.

The second thing, and this is important as well, that we really want people to go through the Capitol Visitor Center to enter the Capitol. That is primarily because the Capitol has egress deficiencies, and we need to carefully monitor how many people are in the Capitol building at any one time.

The way we do that is getting them to enter through the Capitol Visitor Center so we have a steady count of who is going into the building and who is coming back out.

So those are the two reasons that that person is there.

Senator MURKOWSKI. I am still not convinced, but I appreciate the explanation.

OOC FTE STAFFING REQUEST

Ms. Chrisler, you had mentioned, and I apologize, I know that you had indicated that you were looking for the Occupational Safety and Health Administration (OSHA) not staff director, but compliance—

Ms. CHRISLER. Program supervisor.

Senator MURKOWSKI [continuing]. Supervisor, but then did you also indicate that there were two other positions? There was a fire safety position. How many positions are you seeking to fill?

Ms. CHRISLER. Right. We are seeking one FTE, the authorization and funding for an OSH program supervisor to replace the nonreimbursable detailee that will be retiring soon.

Senator MURKOWSKI. So the others were not new adds in terms of hires?

Ms. CHRISLER. Not in terms of authorization. The second was the compliance officer, which has already been authorized. We are seeking funding for that. The third is a fire safety specialist, which we are not seeking the authorization for an FTE for, just funding for contract services.

Senator MURKOWSKI. But you currently have a total of 21 employees?

Ms. CHRISLER. That is correct.

Senator MURKOWSKI. And does that include your detailee?

Ms. CHRISLER. No, it does not.

Senator MURKOWSKI. Okay. So what is it that you can't do with 21 that you need to have these additional 3?

Ms. CHRISLER. Well, the person that is going to be—that is one additional position that we are requesting, and that position is currently being filled by someone from another agency. And once he retires, we won't have the performance of those duties any longer.

OOC FTE STAFFING JUSTIFICATION

Senator MURKOWSKI. And I can appreciate that because I think we have all had good detailees in our respective offices. But it would seem to me that given the responsibilities within the Office of Compliance, to have a good, solid 21 full-time employees is pretty good. So I guess I am asking what are you not able to accomplish with the individual staff level that you have?

Ms. CHRISLER. Right. The 21 FTEs is wonderful, and it is not where the office has been before, and we are very appreciative of what this subcommittee and the committee as a whole has supported us in doing.

What we are looking to do—what we are struggling doing right now is monitoring a lot of the safety and health findings that we have found. The hazards that are outstanding, the fire and safety, the safety and health fire hazards that we have documented since 2000 and 2001, the abatement needs to be monitored.

The 9,000 violations that were found in this past Congress and the 13,000 in the prior Congress need to be monitored as well to ensure that the abatement is on track and to ensure that progress is being made and to ensure that nothing falls through the cracks. That is where these positions would be instrumental.

Senator MURKOWSKI. Mr. Chairman, I am just going to look quickly and see if there is anything else that I wanted to ask our witnesses here.

RENEWABLE ENERGY

Oh, there was a fair amount of controversy I guess it was last year, it may have been 2 years ago, when we purchased renewable energy credits. Are we still doing that?

Mr. AYERS. There was. I think there is often confusion between carbon credits and renewable energy credits, and they are very different.

Senator MURKOWSKI. But we were doing renewable energy credits, were we not?

Mr. AYERS. That is correct.

Senator MURKOWSKI. Right.

Mr. AYERS. Renewable energy credits enable us to purchase electricity through wind sources versus the carbon offsets, which is a relatively newer market that allows you to purchase carbon offsets, really different from electricity. So—

Senator MURKOWSKI. What are we doing, and how much are we spending?

Mr. AYERS. The Architect has not purchased carbon offsets. So that has not happened. But we do purchase renewable energy certificates, and that is required by the Energy Independence and Security Act of 2007 (EISA).

Senator MURKOWSKI. Do you recall how much we spend on that?

Mr. AYERS. No, ma'am, I don't. But I would be happy to get that for you for the record.

[The information follows:]

In fiscal year 2004, the AOC purchased 51,296,000 kWh of renewable energy credits from 75 percent national landfill gas resources, and 25 percent national wind resources at a unit price of \$0.01081/kWh for a total expenditure of \$554,510. In fiscal year 2008, AOC purchased 107,365,000 kWh of renewable energy credits from national wind resources at a unit price of \$ 0.006/kWh for a total expenditure of \$644,190.

In addition, beginning in fiscal year 2006, all electricity supplied through the GSA-managed electricity contract for government entities located in the District of Columbia requires renewable energy credits equivalent to 3 percent of the annual electricity usage. The unit price for the renewable energy credits is included within the base price of the contract and we cannot determine actual cost of these renewable energy credits.

EISA REDUCTION GOALS

Senator MURKOWSKI. Okay, the last question, and this also relates to the energy issues. We have set a goal through EISA for a 30 percent reduction by 2015. You indicate that you have made reductions of 12 percent since 2003. And you have done it through some of the low-hanging fruit.

So the question is, is how do we meet the goal? And since that time, the Speaker has kind of upped the ante even further, bringing it to a 50 percent reduction by 2017. What is the plan to meet that, and how are we budgeting to do that?

Because if you have taken the low-hanging fruit already and it has gotten us to 12 percent, how do we make it to 50 percent by 2017? And what do you figure it might cost us?

Mr. AYERS. Well, I think there are three steps to that, Senator Murkowski. First is it will continue to take direct appropriations to achieve some of those energy reductions, and you will see some of those in our 2010 budget, I think to the tune of almost \$11 million. So that is first.

Second, we are using public-private partnerships; energy savings performance contracts. So, for example, in the next year or so, we will award several contracts where private companies will invest nearly \$150 million in our facilities and be paid back by the energy savings they achieve through the implementation of their projects. So that is the second way.

The third way, I think, is really yet to be determined. But in my view, we need something big in the future to enable us to achieve those results. I am hopeful that the National Academy peer review of our long-term Capitol Power Plant efforts will yield a co-generation recommendation that we can then pursue through another public-private partnership and achieve some very significant savings through that.

I can tell you that National Institutes of Health has just done that, and the General Services Administration has just done that. They are achieving very significant energy reductions by a co-generation facility through a public-private partnership.

UTILITY REDUCTION COSTS

Senator MURKOWSKI. So we are seeing good results there, but do you think we will see a reduction in our utility cost? I mean going from coal to natural gas, we know that that was more expensive to do.

Mr. AYERS. Correct.

Senator MURKOWSKI. Will we see a leveling off in our utility costs, do you think?

Mr. AYERS. I don't believe we are going to see a leveling off in our utility cost. The key to an energy savings performance contract is we must continue to appropriate the same dollars for utilities, and the delta between your energy reduction and what you appropriate, that is the money that you use to pay your vendors for making that investment.

So, going forward, we are going to continue to pay the same kinds of utilities we pay today.

NATURAL GAS VERSUS COAL

Senator MURKOWSKI. I am looking at a chart that shows the differences, and if we were to use, say, 95 percent natural gas to 5 percent to zero coal, a cost of \$25.6 million. If you were to change that mix so it is 45 percent natural gas, 50 percent coal, 5 percent fuel oil, your cost is just a little shy of \$20 million. So it makes a difference.

Anyway, I am not going to belabor that point. One last question for you, and it is just to satisfy my curiosity. What is the sustainable site demonstration gardens?

BARTHOLDI FOUNTAIN

Mr. AYERS. Our Botanic Garden has partnered with the Lady Bird Johnson Wildflower Center to develop an industry standardized way of rating landscapes and gardens for sustainability, just like the U.S. Green Building Council has implemented the LEED standard that you may be familiar with—the LEED, leadership in energy and environmental design.

So we have partnered with them to develop standards for sustainability for landscapes, very similar to the buildings again, and it is our effort to begin to pilot that rating cycle here on Capitol Hill. So that is what that is, and we would intend to do that at the Botanic Garden or across the street at Bartholdi Park.

Senator MURKOWSKI. When is that fountain going to be done?

Mr. AYERS. It is probably 2 years before the fountain comes back on.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Thank both of the witnesses.

Senator NELSON. Thank you, Senator.

VISITOR ASSISTANTS/GUIDES FTE INCREASE

I do have a question. The 25 FTE increase for this budget, which includes 15 visitor assistants, although that is 5 additional guides only adds up to 20. But the additional visitor assistants, would this be for peak periods, or would it be level across the timeframe?

Mr. AYERS. It would be level across the timeframe, Mr. Chairman. The number one driver for these new visitor assistants are the very significant number of evening events we have in the Capitol Visitor Center, far more than we had anticipated, literally hundreds of them, and many going on every single night.

I was here just two nights ago with a group of students in the Capitol Visitor Center, and truly, I saw people going to events that were walking around all over the place. They had no idea where to go, how to get to their room. There was no one there to help them, and I found myself sort of doing the way finding for these people.

So that is really the key driver. We need some way finding people and organizing people for these evening events.

Senator NELSON. I assume it is not possible to do that, let us say, on a part-time basis because if you have shifts, are you going to stagger the shifts, or are you going to need as many people at night as you need during the day, for example?

Mr. AYERS. We should look carefully at a part-time option. We will do that.

Senator NELSON. Because it seems to me that you are not going to have as many people at night. I have only been over there at night a couple of times myself, but I haven't seen as many people at night as I have seen during the day time. Could be some exceptions to that, but perhaps not.

If you would, I think that would be helpful. That, once again, would cause us a little less heartburn on your budget.

ADDITIONAL COMMITTEE QUESTIONS

Well, I want to thank both of you today for spending the time and attending the hearing and answering the questions. We will be anxious to receive the answers that you are going to put together to get to us. We will make them part of the record. We appreciate your cooperation.

[The following questions were not asked at the hearing, but were submitted to the agencies for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO STEPHEN T. AYERS

QUESTIONS SUBMITTED BY SENATOR BEN NELSON

CAPITOL POWER PLANT

Question. Your request includes \$10 million for the conversion of one of your boilers to burn natural gas instead of coal. What ratio of natural gas to coal are you currently burning in the Capitol Power Plant?

Answer. As part of its normal summer operations, the Capitol Power Plant burns 100 percent natural gas to facilitate scheduled boiler repairs and preventative maintenance work. This also reduces emissions during the heavy ozone season in the summer months. In March, the Capitol Power Plant ceased coal operations approximately 2 months earlier than in recent seasons. The result of this earlier cessation is that the projected fuel usage ratio for fiscal year 2009 is 75 percent natural gas and 25 percent coal. Although these percentages could vary slightly based on weather variables, which may drive an increased campus steam use, this earlier switch to 100 percent natural gas is projected to provide an approximate 10 percent reduction in coal use for fiscal year 2009.

Question. If we do not appropriate this \$10 million in fiscal year 2010, what fuel mix will be used at the Capitol Power Plant?

Answer. In response to the February 26, 2009, letter from the Speaker of the House and the Senate Majority Leader, the Acting Architect directed the Capitol Power Plant to continue planned work to upgrade equipment and controls on one of the natural gas boilers to increase its efficiency. He also directed expanded maintenance projects this summer to test and fine tune the remaining natural gas boilers. These efforts will improve the efficiency and capacity of existing natural gas equipment to meet the steam requirements for the Capitol complex using only natural gas, barring three issues:

- Based on discussions with the natural gas utility provider, the supply line must be upgraded from a four-inch gas line to a six-inch gas line to ensure sufficient natural gas can be delivered during the winter months. The Architect of the Capitol is working with the utility provider to plan the upgrade of the gas line.
- Second, colder than normal weather during the winter months could cause the steam demand to exceed the capacity of the existing natural gas equipment which would drive a requirement to use coal as a fuel source in a boiler.
- Third, all existing natural gas equipment must be operating at capacity to meet steam requirements during the winter. Any equipment outages involving the gas boilers would necessitate the use of a coal boiler.

If any of the above issues are realized, coal would have to be used to meet demands. While impossible to predict with accuracy, we estimate this could be between zero and 3 percent coal usage. On an annual basis, it is estimated the Capitol Power Plant will provide 97 to 98 percent of the required steam generation for the Capitol complex using natural gas as a fuel source.

Question. I understand you have commissioned a long-range study on the Capitol Power Plant to look at a range of options for the Plant's future. Can you give us an update on the status of that study and what potential options are being discussed?

Answer. Earlier this year, leveraging our in-house experts and highly qualified consultants, the Architect of the Capitol prepared a draft Capitol Power Plant strategic energy plan which is completed to approximately the 70 percent level. This master planning process examined numerous options for the Plant to meet goals of improving efficiency and reliability, reducing environmental impacts, and controlling the cost of operations. The Architect of the Capitol enlisted the assistance of the National Academy of Sciences to review this draft plan. The National Academy of Sciences assembled a panel of industry experts who are currently conducting a thorough review of the options and strategies. In addition, the Architect of the Capitol

requested that the U.S. Department of Energy's National Energy Technology Laboratory conduct a review of the plan. These reviews will provide very useful third-party perspectives on the plan to enable the Architect of the Capitol to chart a course that provides the greatest efficiency and cost benefits while meeting the needs of Congress. The options considered in the report for providing generation at the Capitol Power Plant are:

Options 1-3: Existing Configuration with Boiler Replacement

Existing configuration using 65 percent natural gas, 38 percent coal, and 2 percent fuel oil.

Existing configuration using 98 percent natural gas, and 2 percent fuel oil.

Existing configuration using 80 percent synthetic coal, 18 percent natural gas, and 2 percent fuel oil.

Options 4-6: Cogeneration with 33 Megawatts of Electricity Generation

Cogeneration using 85 percent natural gas, 13 percent coal, and 2 percent fuel oil.

Cogeneration using 98 percent natural gas, and 2 percent fuel oil.

Cogeneration using 85 percent natural gas, 13 percent synthetic coal, and 2 percent fuel oil.

Options 7-16: Construction of a New Plant

New circulating fluidized bed plant (a combustion technology that mixes gases and solids) using 65 percent natural gas, 38 percent coal, and 2 percent fuel oil.

New natural gas boiler plant using 98 percent natural gas, and 2 percent fuel oil.

New circulating fluidized bed plant using 80 percent synthetic coal, 18 percent natural gas, and 2 percent fuel oil.

New 20 megawatt fuel cell plant using 98 percent natural gas, and 2 percent fuel oil.

New coal gasification plant using 98 percent natural gas, and 2 percent fuel oil.

New waste-to-energy plant.

New plant with heat-recovery chillers.

New plant with a high temperature hot water system.

New nuclear plant.

New plant utilizing Department of Energy Super Boiler technologies.

The report also includes nine separate options for routing of the utility distribution system throughout the campus and six options to provide for decentralization, construction of a separate utility plant, or connection to the General Services Administration system. The final version of the plan is expected to be complete by the end of the fiscal year.

LIFE SAFETY PROJECTS

Question. As you know this subcommittee places a very high priority on funding life safety projects. In fiscal year 2009 we funded over \$75 million worth of these projects including \$56 million for the utility tunnel repairs. Is the fiscal year 2010 request of \$45 million the last large installment of funding for this project?

Answer. The fiscal year 2010 request of \$45.77 million will be reduced to \$16.85 million due to revised project logistics, as well as savings achieved in asbestos abatement, use of in-house labor, and reduced contract costs. As a result of this reduction, some costs will be shifted to fiscal year 2011 and fiscal year 2012. The Architect of the Capitol is currently projecting a fiscal year 2011 request of \$13.95 million, and a fiscal year 2012 request of \$10.41 million. The revised funding profile will be sufficient to meet the June 2012 date mandated by the settlement agreement to abate all tunnel hazards.

Question. What other "citation-related" projects are included in the fiscal year 2010 request?

Answer. In addition to the utility tunnels, the citation-related requests for fiscal year 2010 are Sprinkler System, West Main Pavilion, 1st Floor, Thomas Jefferson Building; Egress Improvements, Phase II, Thomas Jefferson Building; Book Conveyor System Modifications, Library Buildings and Grounds; Monumental Exterior Exit Doors, John Adams Building; Fire Door Improvements, Library Buildings and Grounds; and Americans with Disabilities Act Bathroom Renovations, John Adams Building.

Question. In terms of life safety projects in general, is there some point when you expect the number of code deficiencies and citations to start going down as we address these issues each year?

Answer. Yes, the number of deficiencies and citations issued by the Office of Compliance has been declining. Since 1998, the Office of Compliance has issued 97 citation items to the Architect of the Capitol. Eighty-five of these (88 percent) were

issued between 1998 and 2000. Since 2005, the Architect of the Capitol has been issued eight citation items, with just one citation issued since 2007. Of the total 97 citation items issued to AOC since 1998, 76 are closed and 21 remain open. AOC expects to close five citation items by the end of 2009, leaving nine fire and life-safety and seven utility tunnel citations open. The Architect of the Capitol biennial inspection deficiencies decreased 14 percent from the 109th Congress to 110th Congress, and further decreases are projected based on the early 111th Congress inspection process. The Architect of the Capitol attributes these deficiency and citation declines to a combination of factors including increased funding to address fire and life-safety deficiencies; implementation of facility condition assessments, safety programs, and periodic facility inspections; and improved communication and coordination with the Office of Compliance.

ENERGY REQUIREMENTS

Question. One of the drivers of this year’s request is meeting energy reduction requirements from several different energy bills. While I think it is important to lead by example in this regard, I realize there are significant costs related to these efforts. What major actions have been taken to reduce our energy usage and how successful have you been in that regard?

Answer. The AOC has a number of ongoing initiatives to reduce energy consumption and meet legislative goals. Some of the biggest contributors to reduced energy consumption are:

- West Refrigeration Plant Expansion Chillers.*—These new chillers are 20 percent more efficient and reduce the energy associated with chilled water production.
- Capitol Power Plant Operational Changes.*—Since June 2008, the Capitol Power Plant has implemented improved operating procedures and equipment staging, and reduced chilled water supply temperatures in the winter. Combined with heating and air conditioning improvements made in the jurisdictions, the changes have resulted in a reduction in heating and cooling energy production by 20 percent.
- Infrastructure Improvements.*—As a side effect of improving the tunnel conditions, the improved insulation was installed and significantly reduces leaks and other heating losses, resulting in a lower steam production requirement.
- Jurisdictional Improvements.*—Each jurisdiction has implemented energy savings initiatives such as lighting upgrades, installation of occupancy sensors and compact fluorescent light bulbs, change-over to energy star equipment, and other low-cost/no-cost improvements. In addition, the Architect of the Capitol’s energy awareness public outreach program educates individuals on energy savings techniques.

The above initiatives were instrumental in enabling the Architect of the Capitol to surpass legislated energy reduction goals (against the fiscal year 2003 baseline) as shown in the table below:

[In percent]

Fiscal year	Goal	Achieved
2006	2	6.5
2007	4	6.7
2008	9	10.7

Question. You are requesting \$11 million worth of projects in fiscal year 2010 with an energy-reduction focus. What level of energy savings will these projects, if funded, achieve for the Capitol Complex?

Answer. The projected energy savings is estimated at 6 percent when the fiscal year 2010 requested projects are completed.

Question. The Architect of the Capitol is requesting \$17 million for energy management programs, metering, and design/build development. Can you explain how these items tie in to your overall efforts?

Answer. The Architect of the Capitol plans to use \$3.4 million for a contract to oversee the work being done by the Energy Savings Performance Contracts. The Energy Savings Performance Contracts will generate construction-type repair and replacement work across the Capitol complex. Some of the work involved may be located in areas that contain unique or historically important items. The Architect of the Capitol must ensure that the construction is properly managed and also must provide for third-party measurement and verification, and oversight of commissioning services for projects.

The use of Energy Savings Performance Contracts and currently-planned construction projects will not enable the Architect of the Capitol to continue to meet the mandated energy reduction goals. Additional energy reduction projects will be necessary. The requested \$6.5 million to develop design/build packages will help bridge the gap between currently identified projects and the energy reduction goals.

Electrical, steam, and natural gas meters are required per Section 434 of the Energy Independence and Security Act of 2007. The \$7.1 million metering request is sufficient to procure and install meters and infrastructure to fully meet this fiscal year 2015 requirement. In addition, metering compliments the entire energy program by enabling the detailed monitoring of energy usage, and will help the Architect of the Capitol to identify potential energy savings opportunities at the individual building level.

Question. How are you using Energy Savings Performance Contracts to help meet your energy reduction requirements?

Answer. The Department of Energy's Energy Saving Performance Contracts are being used as an alternative funding strategy to appropriated funds. Under these contracts, companies complete energy saving construction projects, and are then reimbursed from the funds that would have been used to pay for the energy that is no longer necessary due to savings generated by the installed projects. The Architect of the Capitol plans to use several Energy Savings Performance Contracts across the Capitol complex. These Energy Savings Performance Contracts are in various stages of evaluation and negotiation. Since the construction costs are financed through the Energy Savings Performance Contracts companies, the Architect of the Capitol will reimburse the companies for construction as well as financing costs over the next 20 to 25 years, if the companies' efforts realize energy savings.

OPERATING BUDGET

Question. The Architect of the Capitol is requesting a 10.4 percent increase in its operating budget in fiscal year 2010. That is a pretty significant increase for day-to-day operations, particularly given the significant capital project needs you are requesting. How much of the operating budget increase is "controllable"—that is, not related to pay increases or other inflationary changes?

Answer. The \$39.9 million (10.4 percent) increase in operating budget includes \$23.9 million in mandatory pay and inflationary increases (6.2 percent of the overall operating budget increase), \$4.7 million (1.2 percent) in Capitol Visitor Center program increases, and \$11.3 million (3 percent) in what could be called "controllable" operating budget increases. The Architect of the Capitol does not believe the increases for the Capitol Visitor Center should be considered controllable because the increases are driven by unforeseen demands and the first full year of operations funding. In addition, the \$11.3 million (in increases that are not related to mandatory pay and inflation) includes critical mission items such as an internal control audit to prevent fraud, waste, and abuse; facility condition assessments for new inventory buildings such as the Library's book storage modules and the National Audio-Visual Conservation Center; critical program/project management tools; safety equipment and training; uniforms; replacement of a 20-year old cable television head-end switcher; an OSHA-required hazardous material survey; and the transit subsidy benefit increase. Although these items may not be required by law or directive, not funding them will impact the Architect of the Capitol's ability to meet mission requirements.

Question. You are asking for an additional 25 full time equivalents in fiscal year 2010 for the Capitol Visitor Center, including 15 Visitor Assistants and five additional Guides. Have you considered hiring these additional personnel on a part-time basis—for the peak visitor season—rather than full time?

Answer. Yes, we can develop a seasonal profile that will minimally meet the needs. Due to training requirements and the learning curve for these positions, temporary positions do not offer the same level of efficiency as full time staff.

Question. Is this increase in personnel due to unforeseen needs at the CVC? Could you explain this request and how you arrived at these numbers?

Answer. The Capitol Visitor Center had to convert a number of current Visitor Assistant positions to accommodate unforeseen operational needs such as a larger-than-anticipated phone call center, the need for a volunteer services coordinator, Congressional liaisons, and reservation clerks and a coordinator. The principal driver for the additional increase in Visitor Assistants is the greater-than-anticipated number of evening events in the CVC meeting spaces and the support requirements for these events. Visitor Assistants have been frequently called upon to help direct guests to event spaces, and also to enforce CVC policies (e.g. food restrictions in Emancipation Hall) during the evening hours and special Sunday events. It is also

necessary to position Visitor Assistants at various points outside to provide directional way finding assistance to visitors. Visitor Assistants have also been called upon to provide additional support during normal operating hours for special Congressional events in and outside the Capitol such as the Inaugural, the Days of Remembrance ceremony in the Rotunda, and the unveiling of the Reagan statue. The Guide increase is driven by the size of tour groups. Currently, tour groups range in number from 40 to 60, depending on Guide availability and scheduling. The average size of a tour group would decrease to 40 with the addition of five Guides, providing a more manageable size from a logistics and security perspective.

GOVERNMENT PRINTING OFFICE SHARED RESOURCES

Question. Both the Architect of the Capitol and the Government Printing Office provide a number of similar industrial-type functions: electrical, carpentry, masonry, and related functions. Since the Architect of the Capitol is already using space at the Government Printing Office, could the Architect of the Capitol and the Government Printing Office take advantage of economies of scale by combining some of these functions?

Answer. The Architect of the Capitol is examining the feasibility of this, and will report back to the Subcommittee on its findings.

Question. Would combining some or all of these functions at GPO possibly free up space in Senate and House office buildings?

Answer. If this is a feasible option, the Architect of the Capitol will assess potential space availability based on specific functions and economies of scale.

PLANNING AND PRIORITIZING

Question. I know your agency has taken significant steps in recent years to establish a data-driven planning and prioritization process. I understand that you have developed, for the first time, a Capital Improvement Plan that's fully informed by facility assessments of each area of the Capitol Complex. Once you identify projects that are needed, what is the process you use to prioritize them for inclusion in your annual request?

Answer. The AOC developed a project prioritization process to evaluate every project in terms of importance, urgency, and classification. In this process, each project is categorized as deferred maintenance, capital renewal, capital improvement, or capital construction. Next, each project's urgency is determined by an assessment of several factors including the facility condition assessments, and the Capitol Complex Master Plan and associated Jurisdiction Plans. Projects are ranked as immediate, high, medium, or low urgency. Finally, each project's importance is carefully evaluated based upon a set of predetermined criteria, including historic preservation, regulatory compliance, mission accommodation, economics, and energy efficiency and environmental quality. All of these factors are used to derive a composite rating that is used to prioritize the projects, top to bottom.

Question. How did you decide where to establish the cut line on projects slated for inclusion in this year's budget request?

Answer. Understanding the fiscal constraints, the AOC included all executable, immediate priority projects in this year's budget request, and only critically-needed high priority infrastructure-related projects.

Question. Were any "immediate priority" projects left out of your fiscal year 2010 request? If so, why were they left out?

Answer. Three immediate priority projects were not included in the fiscal year 2010 budget request. The projects are: Alternate Life Safety Approach, Russell Senate Office Building; Bus Screening Facility, United States Capitol Police; and K-12 Fence Replacement, United States Capitol Police. The Alternate Life Safety Approach project does not have a fully matured solution and several issues must be resolved before it is ready for execution. At the request of the Senate, the Architect of the Capitol is forming a blue ribbon panel to review the project and its proposed solution more thoroughly. The Bus Screening Facility project was eliminated because a final decision to screen buses for the Capitol Visitor Center has not been made. Lastly, the Architect of the Capitol is examining potential solutions for the fence replacement and did not believe the project was ready to move forward at this point.

Question. Are the projects included in your fiscal year 2010 request aimed at addressing the worst deficiencies?

Answer. Yes. The Architect of the Capitol's project prioritization process was designed to identify the most immediate needs and prioritize those needs based on life-safety and regulatory compliance, security, mission, preservation, economics and energy.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question. The budget resolution calls for a 7 percent increase in nondefense discretionary spending. What would be the impact on your budget if we were to limit it to a 7 percent increase?

Answer. Limiting the AOC to a 7 percent increase would mean a reduction of over \$67 million to our current budget request. This reduction would affect our ability to meet the focus areas identified in our budget request: solving the deferred maintenance and capital renewal backlog; following the Capitol Complex Master Plan process; meeting prescribed energy goals; and managing and caring for our people. We would have to make significant cuts to the Line Item Construction Program causing the backlog across the complex to continue to rise, and making mandated energy program goals even more difficult to achieve. In addition, the limitation would greatly reduce our capacity to satisfy requests from our clients.

Question. The AOC has completed facility condition assessments for most of its buildings and facilities. Ratings range from “poor” to “excellent.” How does the condition of our buildings compare to other government facilities?

Answer. A uniform standard that would allow a “side by side” comparison of the condition of the Capitol complex facilities to that of other Federal agencies does not exist. The AOC uses a detailed component level review and assessment to determine Facility Condition Assessments (FCAs) of Capitol complex facilities. This methodology of FCAs identifies specific and detailed repair or renovation requirements and assists in the prioritization of these requirements. Other agencies either do not conduct FCAs at all, or base their FCAs on a very quick assessment of various building components. With the various methodologies of conducting FCAs, it is not possible to compare building condition of the Capitol complex with other government agencies’ facilities.

Question. Citation-related work accounts for a large portion of your budget request. How much more work does AOC need to do to meet outstanding citations beyond fiscal year 2010, and at what cost? How many citations remain open? Are any citations anticipated in fiscal year 2009?

Answer. Citation-related projects that will be submitted in future year’s budget requests include the following:

CITATION RELATED PROJECTS

Project	Projected Construction Cost Model
Tunnel Improvement Program ¹	\$24,360,000
Alternate Life Safety Approach, RSOB ²	\$5,000,000–\$10,000,000
Alternate Life Safety Approach, CHOB	\$3,000,000
Book System Conveyor Projects, LB&G ³	\$10,000,000–\$25,000,000
Egress Improvements, LB&G	\$3,000,000
New Exit Stair (Stair B), TJB	\$11,200,000
New Exit Stair (Stair E), TJB	\$11,200,000
New Exit Stair (Stair F), TJB	\$8,000,000
New Exit Stair (Stair G), TJB	\$8,000,000
Fire Damper and Smoke Control System Modification, LB&G	\$25,000,000 or greater
Fire Door Improvements, LB&G	\$8,000,000

¹ The \$24,360,000 assumes a reduced fiscal year 2010 tunnel program request from \$45,770,000 to \$16,850,000.

² The Senate has requested a blue ribbon panel to review the citation associated with this project; therefore, the project cost is subject to change pending the final determination.

³ There are three projects associated with the citation for the Book Conveyor system. Portions of all three projects are required to abate the citation.

There are two projects currently funded that are associated with the citation for the U.S. Capitol Building. These projects were designed assuming that the U.S. Capitol Building would be fully sprinklered. A project to install sprinklers throughout the Capitol is currently on hold pending Leadership guidance associated with options for the Capitol Complex Master Plan study. The sprinkler project projected cost model is \$24,000,000, but it is not included in the table above.

Currently, 26 citations remain open. The AOC is working to correct the open citations and expects to close 11 citations by the end of 2009. The 15 citations expected to remain open at the end of 2009 consist of seven for utility tunnels and eight involving fire and life-safety.

The Office of Compliance (OOC) has not communicated to the AOC any intention to issue a citation in fiscal year 2009. The AOC is working closely with the OOC on a Capitol Power Plant Occupational Safety and Health matter. In March 2009, AOC and OOC signed a legally binding agreement to provide additional time to ad-

dress this matter and continue to work cooperatively. If this matter is not resolved to the satisfaction of the OOC, a citation may be issued.

Question. The AOC estimates that Energy Savings Performance Contracts (ESPCs) currently in place have a value of over \$150 million. How do ESPCs work, and how do you ensure that the ESPCs result in a good “deal” for the government and the taxpayer?

Answer. An ESPC is a process by which Federal agencies leverage private funds to implement energy efficiency and renewable energy projects. Once the projects are completed, the guaranteed energy savings are used to repay the Energy Service Company (ESCO) for its investment.

To ensure that the ESPCs are technically and economically viable, significant time and effort is put into conducting the investment grade energy audit and formulating the list of Energy Conservation Measures (ECMs) in the Detailed Energy Survey. The ESCO guarantees that the improvements will generate savings sufficient to pay for the project over the term of the contract. The ESCO also is required to verify operation of the installed systems, calculate the previous year’s energy and water savings, and compare verified and guaranteed savings. Rigorous measurement and verification (M&V) requirements document initial performance and assure persistent savings during the performance period.

The AOC is working with the Department of Energy (DOE) to ensure the successful implementation of this initiative. DOE has developed a program and refined procedures to ensure the government receives an equitable payback on every project, while optimizing the public policy purpose of the program by accelerating energy and water efficiency and renewable energy improvements to Federal facilities. These procedures are implemented with complete DOE guidance in the AOC projects. They include DOE program lessons learned, improvements required by statute, and recommendations based on Congressional audits.

A joint AOC/DOE panel is reviewing all aspects of the projects: a DOE-provided Project Facilitator reviews the details; a DOE National Lab technical expert reviews major aspects of the proposal with special attention to the measurement and verification elements. Measurement and verification is essential to assuring the avoided cost has been achieved each year before a payment is made to the contractor. In addition, the AOC is preparing business case and constructability analyses to provide a basis for negotiating cost and energy savings.

Question. The AOC contracted with the National Academy of Sciences to review options for the future of the Capitol Power Plant. One option being considered is the construction of a co-generation plant. Would this be a reasonable investment for us, with significant energy improvements? Can you give us some idea of the cost, and when you might seek appropriations? How could AOC use a public-private partnership to build a co-generation facility?

Answer. Our initial investigation into co-generation at the Capitol Power Plant indicates that it would be a very effective way to improve energy efficiency and increase utility reliability. However, the final system recommendations and associated cost estimates and schedules are not fully developed. Depending on the specific system installed, initial cost estimates range from \$50 million to \$250 million. The AOC also is looking at public-private partnerships or ESPCs as possible options for the implementation of co-generation.

Question. GAO has made recommendations in prior years regarding improving management of the Capitol Power Plant, including “right-sizing” the staff. What is the status of GAO’s recommendations?

Answer. Based on the GAO recommendations, the AOC awarded a contract to perform a work force study in September 2008. The contract covers a workload survey of required tasks, skills, and man-hours for plant operations, maintenance, and management; recommendations for organization structure and skills needed; and flowcharts of key processes. Work Process Flow diagrams were submitted and reviewed in January 2009, and were finalized in February 2009. The Workload Model submitted in March 2009 is under revision to incorporate workloads from the finalized Work Process Flow diagrams. The AOC also has identified additional processes for incorporation into the model. The final report and recommendations are due by the end of June 2009. In addition to the workload study, GAO also recommended that the AOC establish procedures and guidelines for outsourcing and pursue a competitive sourcing strategy. The Capitol Power Plant (CPP) staff is working to develop a specific scope of work for this task and may modify the existing contract to accomplish the work.

As part of the AOC-wide skills survey scheduled to take place from June through September 2009 by the AOC’s Office of Workforce Planning, current CPP employees will have their skills assessed against the identified requirements. The results of the skills survey will help develop the competitive sourcing strategy.

QUESTIONS SUBMITTED TO TAMARA E. CHRISLER

QUESTIONS SUBMITTED BY SENATOR BEN NELSON

Question. I understand that your organization conducts “biennial inspections” of the Legislative Branch facilities. Do these “biennial inspections” occur in the rest of the Federal Government?

Answer. No. The executive branch has annual inspections. See 29 CFR §1960.25(c).

When Congress enacted the Congressional Accountability Act (“CAA”), the result was to enforce the Occupational Safety and Health Act (OSHAct) in a manner similar to what is being done in the private sector. The OSHAct imposes a “General Duty” upon all employers (including executive branch departments) “to furnish a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm to employees” and requires employers to comply with regulations issued by the Secretary of Labor (OSHA Regulations). The Congressional Accountability Act (CAA) imposes this “General Duty Clause” upon each employing office and each covered employee. However, the CAA does not apply to the legislative branch the many specific mandates that the OSHAct imposes in the executive branch.

The OOC’s evaluation function includes examining the performance of safety initiatives and safety professionals in the employing offices. The OOC’s ability to conduct this evaluation function has been somewhat hampered by the failure to incorporate the provisions of 29 U.S.C. § 657(c) (relating to maintenance, preservation and availability of safety records) into the CAA¹. The OOC’s recent Section 102(b) Report to Congress (December 2008) proposes several legislative changes that would correct this problem proposes several legislative changes that would correct this problem by applying OSHA’s recordkeeping and reporting requirements to the employing offices covered by the CAA. See OOC, *Section 102(b) Report*, p. 10 (December 2008). Under the current statutory scheme, unlike the executive branch or private employers, employing offices are not required to make, keep, and preserve, or provide to the OOC records deemed necessary for enforcement of OSHAct Section 5, including records on work-related deaths, injuries and illnesses, and records of employee exposure to toxic materials and harmful physical agents. Similarly, under the current scheme, the OOC is unable to consider any inspection findings of safety professionals in the employing offices because employing offices do not share their inspection findings with the OOC. OOC inspectors are observing a decrease in the number of identified hazards, as well as increased educational efforts from the employing offices, but without inspection data from the employing offices signifying that they have adequately examined and removed OSH hazards from the workplace, the OOC must continue to do what is necessary to ensure a safe and healthy workplace for covered employees. In addition, neither the AOC nor any other covered employing office provides the OOC with injury and illness records that are necessary for strategically determining what areas should be inspected more regularly or provided more technical assistance. This information is not required as part of the CAA, and without it, the OOC depends on its biennial inspections to provide information regarding safety and health conditions to Congress.

Even with these limitations, the OOC works cooperatively with safety professionals in the employing offices to improve conditions in those offices and also facilitates compliance by providing technical assistance and educational opportunities to these individuals. Some employing offices have decided to rely exclusively upon OOC inspections rather than having their own safety professionals conduct comprehensive inspections. In other cases, when necessary and practical, the OOC has also brought safety professionals together with other stakeholders to coordinate and develop solutions to safety concerns that are acceptable to all concerned.

¹Under the CAA, the OOC’s General Counsel is granted the same authority as the Secretary of Labor in subsections (a), (d), (e) and (f) of OSHAct § 8 (29 U.S.C. § 657) and all of the authority contained in OSHAct §§ 9 and 10. Unlike the OSHAct, 29 U.S.C. § 657(c), the CAA does not require legislative offices to keep and provide records to the OOC necessary to develop information regarding the cause and prevention of accidents and illness; records on work-related deaths, injuries and illnesses; and records of any large exposure to toxic materials. Furthermore, unlike the OSHAct, 29 § 657(b), the CAA does not give the OOC investigatory subpoena power that Congress found in enacting the OSHAct to be “customary and necessary for the proper administration and regulation of an occupational, safety and health statute.” Report No. 91–1291 of the House Committee on Education and Labor, 91st Congress, 2nd Session, p. 22; Report No. 91–1291 of the Senate Committee on Labor and Public Welfare, 91st Congress, 2nd Session, p. 12, to accompany S. 2193 (OSHAct) (“a power which is customary and necessary to the proper administration and enforcement of a statute of this nature.”).

The OOC is in the process of conducting its next full-scale inspection of covered facilities. The 111th Congress Inspection is crucial to developing a strategy for future inspections because it provides the OOC with three independent data sets to form the beginnings of a trend analysis. The OOC had a picture from the data garnered from the 109th Congress Inspection, and utilized the 110th Congress Inspection data to begin looking for trends. However, with the information from the 111th Congress, the OOC will be able to implement a more thorough trend analysis and focus future inspections more effectively upon the areas with greatest risk. This means that some areas may not be included in certain inspection cycles if previously identified hazards have been abated and the likelihood of recurrence is low. In other words, provided the data supports it, the trend analysis would allow OOC to sample areas randomly to determine that hazards are not being created rather than actually inspecting every administrative space and office on campus. By doing so, the OOC will be able to devote more resources to reviewing employing office safety and health programs, to focusing inspections on high risk work areas and procedures, to developing new educational materials, and to providing more detailed technical assistance.

While the general duty imposed upon all employers (private sector, executive branch and legislative branch) is the same—compliance with Section 5 of the OSHAct by furnishing a place of employment free from hazards—the specific mandates imposed upon the executive branch are quite extensive due to the provisions of OSHAct § 19 and 29 CFR § 1960. The following table illustrates the differences between the OSH requirements for the executive branch (as mandated by 29 CFR § 1960) and the requirements for the legislative branch.

<p>To comply with Section 5 of the OSHA Act (as mandated by 29 CFR § 1960), executive branch departments are required to:</p> <p>Submit to inspection by agency safety and health inspectors at least annually.</p> <p>Designate an "Agency Safety and Health Official" (holding the rank of Assistant Secretary or equivalent) who will carry out provisions of 29 CFR § 1960, Executive Order 12196, and Section 19 of the OSHA Act. A principal role for this official is to provide "adequate budgets and staffs to implement the occupational safety and health program at all levels".</p> <p>Establish safety and health officials at each appropriate level with sufficient authority and responsibility to plan for and assure funds for necessary safety and health staff, materials, sampling, testing, analyses, travel, training and equipment required to identify, analyze and evaluate unsafe or unhealthful working conditions and operations</p> <p>Ensure that performance evaluations of management and supervisory officials measure their effectiveness in meeting the requirements of the occupational safety and health program</p> <p>Make available the agency's occupational safety and health plan to employees and employee representatives upon their request</p> <p>Post a conspicuous notice informing employees of the Act, Executive Order and agency occupational safety and health program, and relevant information about safety and health committees</p> <p>Adopt emergency temporary or permanent supplementary standards appropriate for application to working conditions of agency employees for which there exist no appropriate OSHA standards</p> <p>Provide safety and health inspectors with safety and health hazard reports, injury and illness records, previous inspection reports, and reports of unsafe and unhealthful working conditions</p> <p>Post notices of unsafe or unhealthful working conditions that are identified by the agency's internal safety and health inspectors. These posters must remain until after the hazard has been abated</p> <p>Investigate working conditions, which employees have reported unsafe or unhealthful, within 24 hours to 20 working days, depending on the potential seriousness of the conditions. These investigations must be made available to the employee within 15 or 30 working days depending on the condition's severity</p> <p>Investigate each accident that results in a fatality or in the hospitalization of three or more employees</p> <p>Establish procedures to follow up, to the extent necessary, to verify that hazardous conditions have been abated</p> <p>Prepare an abatement plan that includes a proposed timetable for abatement, an explanation of any delays in the abatement, and a summary of interim steps to abate the hazard</p> <p>Regularly inform established committees and/or employee representatives of the progress on abatement plans</p> <p>Either establish safety and health committees or be subject to unannounced inspections by OSHA. These committees, which have equal representation by management and non-management employees, monitor the performance of agency-wide safety and health programs</p> <p>Participate in the Safety, Health, and Return-to Employment (SHARE) initiative which requires: (1) the establishment of goals and plans for reduction of injuries and illness; and (2) reporting on progress made toward meeting the established goals. The goals for 2004-2009 were to: (1) reduce by 3 percent the total number of employee injuries per year; (2) reduce by 3 percent the annual lost time due to worker injuries; and (3) reduce by 1 percent the total number of annual lost production days due to worker injuries. (Established by Presidential Memoranda on 1/9/2004 & 9/29/2006)</p>	<p>To comply with Section 5 of the OSHA Act, legislative offices are required to:</p> <p>Submit to inspection by the OOC at least biennially.</p>
---	---

In addition, many executive agencies apply more stringent definitions and other national standards for safety, health and fire prevention, which have not been implemented by OSHA. For example, the Department of Defense instruction on hearing conservation defines a more protective (lower) level of hazardous noise than the OSHA standard. In some cases for which no OSHA standard is appropriate, the executive branch has adopted emergency temporary or permanent supplementary standards. By contrast, the OOC does not apply any standards more stringent than those adopted by OSHA.

The CAA also requires the OOC to perform inspections in response to a written request by an employee, just as OSHA inspectors respond to written requests by executive branch employees. At executive branch workplaces that have not established a safety and health committee, OSHA is also authorized to make unannounced inspections. In contrast, the OOC does not conduct unannounced inspections of any type. Although the OOC's procedural rules permit the use of unannounced inspections, the OOC's General Counsel, exercising his authority under OOC Procedural Rule §§ 4.06(3) and (4), has determined that giving advance notice of inspections is "necessary to assure the presence of the representatives of the employing office and employees needed to aid in the inspection" and will "enhance the probability of an effective and thorough inspection." For these reasons, the OOC does not make unannounced biennial inspections. Most employing offices are not only notified of the inspection well in advance, but are provided with reminder notices shortly before the actual inspection.

Question. If not, doesn't this hold the Legislative Branch to a higher standard than the rest of the government? I do not think that was the intent of the Congressional Accountability Act and I certainly don't personally think it is appropriate.

Answer. The legislative branch is not held to a higher standard as the rest of the government. As explained above, the general duty imposed upon all employers (including the executive and legislative branches) is the same—compliance with Section 5 of the OSHAct by furnishing a place of employment free from hazards. However, the specific mandates imposed upon the executive branch are far more extensive than those imposed on the legislative branch due to the provisions of OSHAct §19 and 29 CFR §1960, as illustrated in the table provided above.

Question. Does your organization work closely with the Architect of the Capitol—taking into account the Architect's Capital Improvement Plan and Capitol Complex Master Plan when conducting its biennial inspections to ensure that redundancies in work are avoided?

Answer. Yes. OOC and AOC work collaboratively to conduct the biennial inspections. The biennial inspection schedule is an integral part of the interim protection methods implemented to reduce the risk to occupants of buildings having serious safety deficiencies. The OOC is very conscious of budgetary concerns and works closely with the AOC concerning plans that involve safety improvements. As features of the Master Plan have received approval and funding, the OOC and the AOC have worked closely together to avoid redundancies in work and to maintain cost effectiveness. Due to the costs of the improvements recommended by AOC in its plan to abate hazards originally discovered in 2000, the OOC is working closely with the AOC to implement interim fire prevention and fire protection methods to lower risks in those buildings with serious safety deficiencies.

The OOC also works with the AOC to conduct biennial inspections so as to cause minimal disruption of building operations. The OOC has daily contact with AOC staff and conducts regularly-scheduled meetings with the AOC to coordinate efforts. Prior to any inspection, a pre-inspection conference is held to determine how the inspection can be conducted in the most efficient and effective manner. Prior to the physical inspection of an employment site, the OOC will review any office records regarding self-inspections and other safety initiatives to avoid redundancies and to focus the inspection efficiently on areas of concern.

OOO Communications with Building Superintendents.—The OOC and the AOC have also been working on improving communication with the Superintendents' Offices regarding the hazards that have been identified during inspections. OOC and AOC representatives are working cooperatively to develop a regular agenda and to otherwise share information with the Superintendents' Offices that will better prepare them for the OSH Biennial Reports and future inspections. The additional information to be shared includes: OOC inspection priorities and changes in priorities, most common hazards, most serious hazards, inspection trends, and OOC inspector observations of existing conditions. This joint effort will benefit both the AOC and the OOC because information will be relayed to decision makers on a weekly or bi-weekly basis so that common hazards can be addressed, and employees in areas yet to be inspected can be informed of what the inspectors are expecting to find. This

regular communication enhances overall education and protects covered employees more effectively.

Contested Findings.—In addition, the OOC provides a procedure for the AOC and other employing offices to contest Biennial Inspection findings. Every cover letter sent with the OOC's *Hazard Summary Report* includes the following language:

“As to any identified hazards your office or agency wishes to contest, please clearly identify those findings in your responses by writing CONTESTED in the response area in line with the Finding ID and explain the rationale and related standards for the contest. If you object to any of the findings, please be as specific as possible in identifying the basis of your contest, e.g. the level of the RAC assessment, if you think the finding is not a hazard, if you dispute the location of the finding, or contest responsibility for correcting the hazard, etc.”

This procedure ensures that any dispute over a finding, no matter what the reason, will be presented to the General Counsel for review. The General Counsel responds in writing to any contested finding filed by an employing office.

Cannon Building Project.—The Cannon building project does not entail redundant or wasted work; the OOC has not required the installation of expensive stairwell enclosures only to be torn out during future remodeling. First, the OOC citation issued in 2000 does not mandate a specific abatement solution; instead the OOC's role is to evaluate whether the abatement measures proposed by the AOC will adequately abate the hazard pursuant to the OSHA and fire protection standards. Second, the OOC has assisted AOC in an efficient implementation of the AOC's current plan for the Cannon Building. Stairwells 3–7 are already enclosed or in the process of being enclosed and will remain so in the new design. The alternate life-safety measures (creation of separate life-safety zones) to account for the unclosed rotunda stairways (1 and 2), if funded, will not be installed until 2012, after the design for the renovation has been completed. The renovation design plans are likely to incorporate these measures. If not, any necessary modifications to the fire safety measures can be made prior to any construction. If there are any delays in construction, the OOC has agreed to work with the AOC to identify and implement interim fire prevention and protection methods.

Question. Does your office consider whether work that is required by a citation may be addressed in phases so that the impacts of the work on occupants and budgets may be minimized?

Answer. Yes. When the OOC issues a citation, it only identifies hazards; it does not mandate particular ways in which the AOC is required to abate the hazard. The covered offices are given maximum flexibility to develop, consider and implement various corrective measures. For example, the citations regarding unenclosed stairwells contain the following abatement instructions: “evaluate alternatives to reduce the danger posed by open stairwells and develop plan to reduce danger, taking into account costs, benefits, and historic preservation.” The OOC provides technical guidance and assistance to the covered offices regarding various solutions that are being considered. As the technical expertise of the Office has expanded, more assistance has been provided. Although the CAA requires that violations be corrected “as soon as possible” and no later than “the end of the fiscal year following the fiscal year in which the citation is issued” [2 U.S.C. § 1341(c)(6)], the OOC works with the employing offices to implement interim safety measures when abating a citation will require expensive alterations and take more than one Congress to complete. See, GAO's Briefing for Congressional Staff, *AOC's Process for Prioritizing Capital Projects* (September 2008).

An example of such interim safety measures is the installation and enclosure of stairwells. Most of the AOC's current proposals regarding the installation and enclosure of stairwells in various buildings arose out of OOC inspections conducted in 2000. Improving fire prevention is a recognized interim measure that can allow occupancy of buildings with deficient fire protection. A biennial inspection is a comparatively inexpensive, interim measure. In buildings with inadequate fire protection, it is essential that the inspection focuses on the following: eliminating electrical hazards posed by extension cords and overloaded or inadequately protected circuits; minimizing egress hazards associated with open fire doors and obstructions in exit pathways; examining the functioning of all alarms, detectors and fire suppression systems; insuring adequate training regarding evacuation procedures and plans; and reducing the danger posed by a building's total fuel load by encouraging prudent paper storage methods. Due to relatively high employee turnover rates in legislative offices, biennial inspections are needed to keep the new staff well informed about fire prevention methods. Such fire prevention methods go a long way towards reducing the probability of fires altogether, as well as the severity of a fire should it occur.

In other cases of addressing the abatement of hazards, the OOC has acted as a facilitator by bringing together interested stakeholders so that all viewpoints can be considered and a cost-effective solution can be found. An example of this type of cooperative decision making involved the House Page School, located in the attic of the Thomas Jefferson Building. The Page School lacks safe emergency egress—a serious safety hazard. The OOC, together with the AOC, brought together representatives, of all of the interested parties including the Clerk of the House, the Capitol Police, House Employment Counsel, the Library of Congress and the Committee on House Administration. Working cooperatively with the AOC and the OOC, these parties were able to devise a cost-effective, interim solution that addresses some of the most significant safety hazards and allows the Page School to continue operating at this location in relative safety until a permanent fix can be accomplished.

Question. Do the historical buildings in our complex, such as the Capitol, the Jefferson Building, and the Russell Building have different requirements for fire and life safety than say a building being built today?

Answer. Yes. The *Code for Fire Protection in Historic Structures* (NFPA 2001) implements a performance-based approach to fire safety in historic buildings where rigid adherence to a modern code might adversely affect historic integrity. This performance-based approach, however, still recognizes that historic buildings must provide reasonably equivalent fire and life safety protection for their occupants. Older buildings that were not built in accordance with modern building codes are more challenging to inspect and require more oversight when known hazards remain unabated. Fire departments often perform inspections on older buildings more frequently than biennially since the risk of fire in buildings with old electrical and gas systems is greater and the methods of egress are not as safe as in newer buildings. NFPA *Fire Protection Handbook*, pp. 7-216–7-219 (2003). The use of frequent inspections is a common interim “fire prevention” method that allows occupation and use of a building that would otherwise be unsafe because known hazards remain unabated.

Other interim measures in buildings with inadequate egress focus on providing more time for occupants to evacuate a building. Increasing fire suppression and fire detection systems (e.g., sprinklers and smoke detectors) can help offset the threat posed by inadequate egress. Ultimately, however, all buildings need to provide safe egress to keep occupants out of danger. The answer to the question below offers a more detailed explanation as to why this is so.

Question. Why would we need to add egress stairwells to the Jefferson Building—which would cost more than \$12 million and cause major disruptions to both staff and visitors—when 98 percent of the building is equipped with sprinklers, 100 percent of the building is equipped with smoke detectors, and it is fully staffed with Capitol Police in the event that a fire did occur?

Answer. After five fires² in Capitol Hill buildings during 1998 and 1999, the OOC began a comprehensive review of fire and life safety systems in all legislative buildings. The OOC inspection of the Jefferson Building in 2000 revealed serious life-threatening hazards pertaining to unenclosed stairwells and unprotected exit pathways that would expose school children, staff, and visitors to smoke and toxic gasses in the event of a fire. While developing a plan to abate the identified hazards, the AOC hired outside consultants, including Gage-Babcock & Associates, to evaluate egress from the building. The resulting studies led the AOC to conclude that adequate egress could best be achieved by adding additional stairwells rather than merely enclosing existing exit stairwells and pathways. The AOC’s plan for the Jefferson Building is acceptable to the OOC because, not only does it address the problems posed by unenclosed stairwells and exposed exit pathways, but it greatly improves egress throughout the building.

In assessing alternatives, the OOC and the AOC have been particularly concerned about the inadequate egress for the House Page School located in the building’s attic. The proposed new stairwell for the House Page School is the least expensive of those being proposed for the building.

The Need for Safe Egress.—While sprinklers, smoke detectors, and trained staff can provide more time for occupants to evacuate a building, buildings with these features still must provide safe egress to keep occupants out of danger. As noted

²In March 1998, a fire in the O’Neill Building (no longer in existence) sent sixteen Capitol Police officers to the hospital for treatment. In April 1998, seven Capitol Police officers were overcome by smoke while attempting to put out a fire in Longworth. In May 1998, a grease fire in the Longworth food court sent three kitchen workers to the hospital for treatment. In July 1998, Ford and Hart were both evacuated because of smoke. An April 1999 electrical fire in the Library of Congress’ Madison Building seriously injured one employee, and required evacuation of the entire building.

in the NFPA *Fire Protection Handbook*, p. 4–65(2003): “Under no condition can manual or automatic fire suppression be accepted as a substitute for the provision and maintenance of a proper means of egress.” Improving egress for fire safety also improves egress during other types of emergencies (including attacks on the Capitol). The Capitol Hill campus is known to be a prime target for an attack. National Commission on Terrorist Attacks on the United States, *The 9/11 Commission Report* (New York: W.W. Norton, 2004). Ensuring the safety of the nation’s leaders during a time of national emergency is a paramount national security concern. *Id.* Buildings need to have better egress when evacuation takes longer due to congestion, confusion, and slower walking speeds because they contain public assemblies, strollers and wheelchairs, young visitors unfamiliar with the layout, and occupants over the age of 65. NFPA *Fire Protection Handbook*, pp. 4–58–4–59, 13–64 (2003).

Sprinklers.—Sprinkler systems do not prevent fires but help control fires after they occur. NFPA, *Fire Protection Handbook*, p. 13–56 (2003). Fires often start in utility closets, electrical cabinets and other locations that do not contain sprinklers. NFPA, *Fire Protection Handbook*, p. 13–52 (2003). Sprinklers do not control fires that start in locations outside of the water distribution pattern due to obstructions (such as under desks and tables). NFPA, *Fire Protection Handbook*, p. 10–201 (2003). Fire risk in a building is determined by the “fire load” or “fuel load,” which measures the amount of combustible material in the building. NFPA, *Fire Protection Handbook*, p. 2–42 (2003). Buildings that contain tons of paper and wooden furnishings have larger fire loads than many industrial buildings. NFPA, *Fire Protection Handbook*, p. 6–347 (2003); Robert J. Fischer and Gion Green, *Introduction to Security*, p. 216 (7th ed. 2004). Combustible materials, like paper, store heat and act like ovens during fires even if there is no ignition. Robert J. Fischer and Gion Green, *Introduction to Security*, p. 216 (7th ed. 2004). Sufficient heat can be generated by un-ignited combustible material to destroy everything inside a building. Robert J. Fischer and Gion Green, *Introduction to Security*, p. 216 (7th ed. 2004).

Smoke Detectors.—While smoke detectors can alert occupants to the presence of smoke, these devices do not eliminate the dangers posed by smoke, heat, toxic gas, explosion and panic. Smoke, heat, toxic gas, explosion and panic are more frequent killers during fires than flames. NFPA, *Fire Protection Handbook*, p. 2–42 (2003). “Best estimates are that two-thirds of all fatal injuries in fires are due to smoke inhalation, possibly in combination with other fire effects, with more than half of such deaths attributable to smoke inhalation alone.” John R. Hall, “Burns, Toxic Gases and Other Fire-Like Hazards in Non-Fire Situations,” p. 2 (NFPA 2004). During a fire, un-ignited combustible materials generate smoke. *Fire Protection Handbook*, p. 8–23 (2003). Smoke can reduce visibility to zero within 2 minutes of a fire’s ignition. A test subject was unable to find a stairway located less than 2 feet away. Robert J. Fischer and Gion Green, *Introduction to Security*, p. 218 (7th ed. 2004). The danger of unenclosed stairways is that, without floor-to-floor separations, smoke and fire can easily spread from the floor of origin to other areas of the building, thereby increasing the risk of disability and death due to obscured visibility, asphyxiation, and panic. NFPA, *Fire Protection Handbook*, p. 12–99 (2003). By providing isolation from smoke, fumes, and flames, enclosed stairways also provide safe egress that minimizes the risk of panic. The risk of panic is greater in buildings such as the Jefferson Building which contain frequent assemblies and many visitors unfamiliar with its layout and evacuation plans. NFPA, *Fire Protection Handbook*, p. 13–36 (2003).

Capitol Police.—Trained personnel, such as members of the Capitol Police, can provide valuable assistance to occupants during a time of fire or other emergency. Panic can easily erupt in facilities such as the Jefferson Building, which receive frequent visitors who are unfamiliar with the building’s layout and evacuation procedures. Trained personnel can help instill calm by providing direction and assistance as needed. Providing trained personnel, however, is not a substitute for providing a safe method of egress.

Fire safety is still a serious problem that must be continually addressed on the Capitol Hill campus. There have been at least 48 fires in Capitol Hill buildings since 1985. A list of these fires has been included in the accompanying Appendix A. There have been 22 fires since 2000.

APPENDIX A.—IDENTIFIED CAPITOL COMPLEX FIRES; 1985 TO PRESENT

The Office of Compliance has identified the following fire events as having occurred within the Capitol Complex between 1985 and 2009. This list has been reviewed by the AOC for accuracy.

(IN REVERSE CHRONOLOGICAL ORDER)

Date: 4/26/2009
Facility: DSOB
Location: Northeast corner Generator Room
Description: Generator Fire

Date: 1/27/2009
Facility: Madison Building
Location: Conservation Lab
Description: Trash can fire

Date: 9/6/2008
Facility: Capitol Power Plant
Location: West Refrigeration Bldg.
Description: Arc Flash Explosion and fire (localized to a capacitor cabinet) destroyed electrical equipment; plant evacuated; D.C. Fire Dept. called to scene.

Date: xx/xx/2008
Facility: Capitol Power Plant
Location: (unspecified)
Description: Electrical circuit fire to a chilled water pump; damage minimal.

Date: 4/7/2008
Facility: House Page Dorm Bldg.
Location: Laundry room
Description: Electrical fire; building evacuated; one USCP officer suffered smoke inhalation and was transported to hospital (treated and released).

Date: 11/2/2007
Facility: DSOB
Location: Restroom
Description: Building evacuated.

Date: 10/31/2007
Facility: DSOB and HSOB
Location: Dirksen basement stairway
Description: Buildings evacuated.

Date: 10/3/2007
Facility: DSOB and HSOB
Location(s): Various women's restrooms
Description: Four separate suspicious fires in women's restrooms (3 fires in Dirksen and 1 in Hart). Fires extinguished by USCP.

Date: 9/28/2007
Facility: HSOB
Location: Women's restroom
Description: Suspicious fire (presumed arson). Fire extinguished by USCP.

Date: 9/26/2007
Facility: HSOB
Location: Women's restroom
Description: Suspicious fire (presumed arson). Fire extinguished by USCP.

Date: 2/27/2007
Facility: LHOB
Location: Credit union
Description: Small computer fire.

Date: 11/07/2005
Facility: Jefferson Bldg
Location: Stack control room
Description: Electrical transformer fire.

Date: 10/8/2005
Facility: Power Plant
Location: (unspecified)
Description: Electrical substation explosion and fire; near total loss of affected equipment; shut down of power plant for several hours.

Date: 06/09/2005
Facility: RHOB
Location: Concealed pipe chase

Description: Smoldering fire in concealed pipe chase caused by hot work on roof; building evacuated; minimal damage and no injuries.

Date: 5/11/2005

Facility: Capitol

Location: Office (unspecified)

Description: Fire in office space (localized); believed to have been caused by smoking materials.

Date: 1/6/2005

Facility: Capitol

Location: Office (unspecified)

Description: Fireplace improperly lit; extensive smoke migration throughout building; temporary evacuation of the building. DCFD called to scene for investigation and smoke removal.

Date: 10/13/2004

Facility: RHOB

Location: Sub-basement

Description: Fire in corridor (cause believed to be smoking materials) with extension to three storage rooms; facility evacuated; dense smoke conditions reported; two USCP officers treated for smoke inhalation at the scene.

Date: 07/06/2003

Facility: RSOB

Location: Exterior transformer vault

Description: Significant electrical fire atop transformer.

Date: 1/24/2003

Facility: Madison Bldg

Location: 7th Floor

Description: HVAC filters caught fire; building evacuated for hours; smoke accumulation in remote locations throughout building (due to HVAC involvement).

Date: 6/29/2002

Facility: Capitol

Location: Ventilation system; 4th floor

Description: Electrical motor fire; complete building evacuation; burning oil created dense smoke conditions that spread through the ductwork to other parts of the Capitol. Fire extinguisher used to put out fire.

Date: 5/9/2001

Facility: RHOB

Location: Member's office

Description: Fire caused by lit candles in bathroom. Building evacuated for several hours during the incident. Minor damage to the bathroom.

Date: 6/20/2002

Facility: Jefferson Bldg

Location: Elevator mechanical room

Description: Electrical fire; moderate damage.

Date: 9/1/2000

Facility: DSOB

Location: Display case

Description: Fire caused by defective light ballast; minimal damage and disruption.

Date: 8/10/2000

Facility: Capitol

Location: Rotunda

Description: Damage to statue and minor smoke throughout building; tours delayed several hours until smoke cleared.

Date: 2/25/2000

Facility: CHOB

Location: Staff office

Description: Total destruction of office; smoking materials believed to be cause of the fire.

Date: 4/6/1999

Facility: DSOB

Location: Kitchen

Description: Total loss of the involved cooking equipment and food materials. Food service area shut down for several days for repair and clean up.

Date: 4/3/1999

Facility: Madison Bldg

Location: Substation A

Description: Electrical explosion; two workers injured (one in critical condition); building evacuated.

Date: 1/13/1999

Facility: Capitol

Location: West front steps and walkway

Description: Incendiary device ignited by demonstrators.

Date: 11/20/1998

Facility: HSOB

Location: Garage

Description: Vehicle in garage caught fire; loss of vehicle was total; adjacent vehicles sustained moderate to severe damage. Building evacuated for several hours until incident was cleared and smoke was removed from the building's garage levels.

Date: 7/29/1998

Facility: CHOB

Location: 4th floor

Description: Fire incident to construction operations; damage to window area and adjacent office space.

Date: 7/16/1998

Facility: Ford HOB

Location: Elevator machine room

Description: Fire in elevator machine room; building evacuation; loss of elevator motor and elevator.

Date: 5/14/1998

Facility: LHOB

Location: Sub-basement elevator machine room

Description: Extensive smoke and water damage to area; several USCP officers injured by smoke.

Date: 5/6/1998

Facility: LHOB

Location: Cafeteria kitchen

Description: Grease fire; suppression system activated; food line shut down for the day for repair and clean up.

Date: 4/23/1998

Facility: LHOB

Location: West elevator machine room on the sub-basement level

Description: Developed fire in elevator machine room. USCP response officers attempted to extinguish—unsuccessful (fire ultimately controlled by D.C. Fire Dept). Ten USCP officers suffered smoke inhalation and received medical treatment. Smoke concentrations reached the top floor of the building.

Date: 1/23/1998

Facility: Botanic Garden's Administration Bldg

Location: Office #115

Description: Fire in office HVAC Equipment heating system (cause: fan coil unit's motor overheated).

Date: 7/11/1997

Facility: Madison Bldg

Location: Loading dock

Description: Fire began on dock with spread to nearby stored materials and trash compactor.

Date: 5/2/1997

Facility: HOB Annex I

Location: Page Dorm

Description: Total loss of room contents. Fire effects penetrated from 6th floor to 7th floor.

Date: 3/27/1997

Facility: HOB Annex I

Location: Page Dorm; 3rd floor Page room

Description: 50 percent loss in room (cause: portable electric fan on floor). Pages evacuated.

Date: 1/13/1997
 Facility: Capitol
 Location: (unspecified)
 Description: Exterior fire (arson).

Date: 9/27/1995
 Facility: CHOB
 Location: Basement mechanical equipment room
 Description: (not available).

Date: 10/1/1994
 Facility: House warehouse
 Location: (unspecified)
 Description: Arson fire; loss estimated at \$100,000 + artifacts.

Date: 7/8/1992
 Facility: Jefferson Bldg
 Location: (unspecified)
 Description: Fire during renovation project (finishing materials used in the renovation project ignited).

Date: 10/2/1990
 Facility: DSOB
 Location: 4th Floor trash cart
 Description: Smoke migration throughout building.

Date: 7/29/1988
 Facility: CHOB
 Location: 4th floor office
 Description: Fire consumed part of office and window.

Date: 5/6/1988
 Facility: LHOB
 Location: Speakers private office suite (2nd floor)
 Description: Electrical fire in kitchen and reception areas. Estimated damage \$500,000. Required extensive restoration. Two USCP officers treated for smoke inhalation at the scene.

(It is OOC's understanding that after this fire, the Congress directed the AOC to install fire alarms in all of the major Capitol Hill Buildings. Congress also established the House Select Committee on Fire Safety to investigate the condition of fire protection features in the House Office Buildings and Capitol.)

Date: 5/5/1988
 Facility: LHOB
 Location: Cafeteria
 Description: Fire suppressed by fixed extinguishing system. Food line shut down for several days for repair and clean-up.

Date: 5/29/1986
 Facility: Adams Bldg
 Location: 4th floor; corner room
 Description: Most materials and ceiling insulation in room destroyed. Heavy smoke conditions throughout the floor.

Date: 2/28/1985
 Facility: RSOB
 Location: Senator's suite
 Description: Computer equipment fault resulting in fire.

Question. How would you compare the OOC system of occupational safety and health inspections to the inspections done by OSHA in executive branch agencies?

Answer. The table comparing the two systems should be responsive to this question. In addition, I would like to add that OOC inspections are very similar to "wall to wall" OSHA inspections. The inspection procedure used by the OOC is actually more "agency friendly" than OSHA's procedure because, unlike OSHA inspections which are almost always unannounced, OOC biennial inspections are only performed after notice of the inspection is provided to the employing offices. This practice provides the employing offices with an opportunity to inspect and correct any known hazards prior to an inspection—and many do.

Question. How much do you rely on the Occupational Health and Safety Administration or other executive branch agencies to do your work? If you rely on a decision or opinion of OSHA or some other Executive branch office, is this allowed under the Congressional Accountability Act? Does OSHA itself conduct inspections in Congressional facilities?

Answer. The OOC attempts to apply OSHA regulations as they are interpreted across the federal government and the private sector. OSHA also publishes directives and issues decisions interpreting its standards which provide useful guidance to the OOC's General Counsel in exercising his statutory authority under the CAA. OOC's hearing officers are also guided by judicial decisions interpreting OSHA as mandated by the CAA. 2 U.S.C. § 1404(h). Currently, a detailee from the Department of Labor provides technical assistance and assists in supervising the inspectors; however, he reports directly to the General Counsel and is under his direct supervision. The other inspectors are either CAA employees or contractors. The CAA permits the Department of Labor to detail, upon request, personnel to the OOC as may be necessary to advise and assist the OOC in carrying out its OSHA-related duties under the CAA. 2 U.S.C. § 1341(e)(4).

As indicated in the OOC's fiscal year 2010 budget request, the detailee from the Department of Labor (OSHA) is scheduled to retire during the current fiscal year and OSHA has indicated that it cannot furnish a comparable or similar replacement detailee. See, OOC, *Budget Justification Request for the Committee on Appropriations*, p. 13 (fiscal year 2010). The fiscal year 2010 budget proposal has requested funding to replace this vital employee.

Congress did not adopt the substantive occupational safety and health regulations that were proposed by the OOC in 1996. The CAA requires that any regulations issued by the OOC be the same as substantive regulations promulgated by the Secretary of Labor except to the extent that a modification of such regulations would be more effective for the implementation of the rights and protections under CAA § 215. See 2 U.S.C. § 1341(d)(2). With respect to any OOC proceeding, if no regulations are issued, the CAA requires the OOC to apply "the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding." See 2 U.S.C. § 1411. These provisions suggest that the OOC can properly consider decisions and opinions from OSHA when interpreting the safety and health provisions of the CAA.

The OOC is also in the process of developing regulations that will be consistent with the current OSHA regulations and will include the same requirements now followed by OGC during its biennial inspections.

OSHA will inspect Congressional facilities only with respect to a private contractor performing services on the campus. To the best of the OOC's knowledge, OSHA has conducted inspections only in response to complaints regarding private contractors performing services on the campus.

Question. How do you see your responsibilities and role vis-a-vis safety professionals in the employing offices? Do you give their own OSH inspections any credit or deference when deciding what needs inspection?

Answer. The OOC's evaluation function includes examining the performance of safety initiatives and safety professionals in the employing offices. The OOC's ability to conduct this evaluation function has been somewhat hampered by the failure to incorporate the provisions of 29 U.S.C. § 657(c) (relating to maintenance, preservation and availability of safety records) into the CAA¹. The OOC's recent Section 102(b) Report to Congress (December 2008) proposes several legislative changes that would correct this problem by applying OSHA's recordkeeping and reporting requirements to the employing offices covered by the CAA. See OOC, *Section 102(b) Report*, p. 10 (December 2008). Under the current statutory scheme, unlike the executive branch or private employers, employing offices are not required to make, keep, and preserve, or provide to the OOC records deemed necessary for enforcement of OSHAct Section 5, including records on work-related deaths, injuries and illnesses, and records of employee exposure to toxic materials and harmful physical agents. Similarly, under the current scheme, the OOC is unable to consider any inspection findings of safety professionals in the employing offices because employing offices do not share their inspection findings with the OOC. OOC inspectors are observing a decrease in the number of identified hazards, as well as increased educational efforts from the employing offices, but without inspection data from the employing offices signifying that they have adequately examined and removed OSH hazards from the workplace, the OOC must continue to do what is necessary to ensure a safe and healthy workplace for covered employees. In addition, neither the AOC nor any other covered employing office provides the OOC with injury and illness records that are necessary for strategically determining what areas should be inspected more regularly or pro-

vided more technical assistance. This information is not required as part of the CAA, and without it, the OOC depends on its biennial inspections to provide information regarding safety and health conditions to Congress.

Even with these limitations, the OOC works cooperatively with safety professionals in the employing offices to improve conditions in those offices and also facilitates compliance by providing technical assistance and educational opportunities to these individuals. Some employing offices have decided to rely exclusively upon OOC inspections rather than having their own safety professionals conduct comprehensive inspections. In other cases, when necessary and practical, the OOC has also brought safety professionals together with other stakeholders to coordinate and develop solutions to safety concerns that are acceptable to all concerned.

The OOC is in the process of conducting its next full-scale inspection of covered facilities. The 111th Congress Inspection is crucial to developing a strategy for future inspections because it provides the OOC with three independent data sets to form the beginnings of a trend analysis. The OOC had a picture from the data garnered from the 109th Congress Inspection, and utilized the 110th Congress Inspection data to begin looking for trends. However, with the information from the 111th Congress, the OOC will be able to implement a more thorough trend analysis and focus future inspections more effectively upon the areas with greatest risk. This means that some areas may not be included in certain inspection cycles if previously identified hazards have been abated and the likelihood of recurrence is low. In other words, provided the data supports it, the trend analysis would allow OOC to sample areas randomly to determine that hazards are not being created rather than actually inspecting every administrative space and office on campus. By doing so, the OOC will be able to devote more resources to reviewing employing office safety and health programs, to focusing inspections on high risk work areas and procedures, to developing new educational materials, and to providing more detailed technical assistance.

Question. By what criteria does your office decide to issue a citation or a complaint? Do you or your deputies review each of these citations before they are issued?

Answer. Criteria and Process Used to Issue a Citation.—If the safety and health specialist and attorney assigned to evaluate a certain finding believe that a citation should be issued, they prepare a report and make recommendations to the General Counsel. In formulating their recommendations, they often consult outside specialists at OSHA, GSA, NIOSH or other entities with expertise in the subject matter. The General Counsel reviews each and every report submitted and makes an independent determination as to whether a citation should issue. A citation is only issued if the hazard is particularly serious or creates an imminent risk to legislative branch employees or the public; when the hazard constitutes a “repeat” or similar or related violation of the type found in past inspections or which a broad, systematic remedy may be required; when an employing office fails to take appropriate and timely steps to correct a hazard; or when it is otherwise necessary to effectuate the purposes of the occupational safety and health laws.

Communication of Process to Employing Offices.—The processes followed by the General Counsel’s office with respect to the issuance of citations are well documented. This information has been previously communicated both in writing and in face-to-face conversations with employing offices. For example, *Biennial Report on Occupational Safety and Health Inspections for the 108th Congress*, pp. 7–11 (October 2005); *Biennial Report on Occupational Safety and Health Inspections for the 108th Congress*, pp. 4–5 (April 2008). See also, letter to Terrell G. Dorn, P.E. from Peter Ames Eveleth, April 21, 2008, describing our citation processes (previously provided to the Committee, most recently on February 3, 2009). The General Counsel issues citations only infrequently, 67 in the 13-year history of this Office. Moreover, only a single complaint has been filed—that challenging the AOC’s failure to abate long-standing, life-threatening safety and health hazards in the Capitol Power Plant utility tunnels. In contrast, during that period, many thousands of hazards have been identified in the hazard findings reports issued to the employing offices by the OGC following the inspection of each facility without issuance of a citation—13,140 in the 109th Congress biennial inspection and 9,336 in the 110th Congress inspection. The responsible employing office’s obligation to abate any hazard identified by the General Counsel applies whether or not a citation has been issued.

No Routine Issuance of Citations.—Both OSHA and the OOC’s General Counsel are required to issue citations for every serious hazard identified by inspections. Unlike OSHA, which immediately issues a citation and imposes monetary penalties for every serious hazard identified by its inspections, the General Counsel only issues citations when less formal, non-adversarial means have failed to abate a hazard. The General Counsel notifies the employing offices of hazards requiring abatement

rather than routinely issuing citations. Given the vast number of hazards discovered during inspections, the General Counsel has determined that this procedure achieves more expeditious and voluntary abatement of hazards. The decision to issue a formal citation or to follow a more informal process lies within the statutory discretion of the General Counsel.

Only One Complaint Has Ever Been Issued.—As indicated previously, only one complaint has been issued in the history of the OOC. This was issued due to the AOC's failure to abate long-standing, life-threatening safety and health hazards in the Capitol Power Plant utility tunnels. A complaint will only be issued when little or no effort has been made to abate similar long-standing, life-threatening safety and health hazards.

Question. Does the risk assessment code that you give to an OSH matter, such as those highlighting possibly deficient egress points in a building, include a consideration of the cost and difficulty of corrections and possible disruptions to a building's occupants? How might a risk-based analysis of safety citations affect your work?

Answer. The risk assessment code (RAC), developed and applied by OOC inspectors working cooperatively with the AOC, is in fact a risk-based analysis of safety hazards based upon the degree of harm and probability of occurrence. The employing or correcting office determines how to abate the hazard and takes into account cost, disruption of operations, and historical consistencies. The role of the OOC is to determine whether the abatement options proposed by the offices are adequate and timely.

As noted earlier, the OOC's primary function is to provide an objective evaluation of the hazards found in legislative branch buildings and to provide technical assistance to employing offices when solutions are being considered. The employing offices customarily consider the cost and difficulty of corrections and possible disruptions to a building's occupants when evaluating and proposing different abatement options.

The risk assessment codes (RACs), which the OOC began to use in coordination with the Architect of the Capitol's Director of Safety, Fire and Environmental Programs, are a version of the RACs used by the Department of Defense. These codes do not include costs or disruptions in operations. They have been established to reflect the relative risk, viewed as a combination of the likelihood of an exposure to a hazard and the severity of the resulting injury or illness.

The Department of Defense Instruction, DOD Safety and Occupational Health Program, DODI 6055.1, August 19, 1998, uses the RAC in conjunction with a Cost Effectiveness Index (CEI) to determine an Abatement Priority Number (APN). The CEI is the cost of correction divided by an effectiveness index, which has been derived from an analysis of DOD accident experience. In the Department of Defense, the APN is used to establish the priority of the funding for abatement projects. That accounts for the risk, the cost and the effectiveness of the proposed abatement plan.

To the best of the OOC's knowledge, none of the employing offices covered by the CAA uses the APN system to prioritize based upon cost effectiveness. In its fiscal year 2010 budget request, the OOC has requested funding for a Compliance Officer who would be able to help the employing offices establish cost-effective abatement measures. See, OOC, *Budget Justification Request for the Committee on Appropriations*, p. 13 (fiscal year 2010). In addition, the OOC's recent Section 102(b) Report to Congress (December 2008) proposes several legislative changes that might assist in determining relative abatement priorities. These changes involve adoption of OSHA's record keeping and reporting requirements regarding accident experience. See OOC, *Section 102(b) Report*, p. 10 (December 2008). Effective abatement priorities cannot be determined without information about accident experience.

Question. Do you give priority to facilities that may be lacking certain safety features, such as fire sprinklers, or having a greater number of occupants exposed to safety issues?

Answer. Yes. The OOC, in conjunction with the AOC, prioritizes the safety hazards in and among facilities by taking into consideration the existence of safety features such as automatic fire suppression systems and building occupancy rates. For instance, in deciding whether a building's egress deficiencies would merit the issuance of a citation, the OOC's General Counsel would consider the number of occupants in the building when determining whether the hazard was so serious as to require a citation.

Question. Does your office consider whether corrections that a citation lists may be spaced over time so that the impacts of the corrections on occupants and budgets may be minimized?

Answer. Yes. The Office of Compliance already works with the AOC in a flexible manner to ensure that its abatement efforts are focused on the highest risks, i.e.,

the fire and life safety hazards that the Office identified in the U.S. Capitol, Senate and House Office Buildings, and Library of Congress Buildings. The OOC identified these hazards in 2000 and 2001; they are the subject of open Citations 16–19 and 29–30.

We recognize that abating these citations presents many challenges. The projects are designed to correct critical safety and health hazards that confront Members, employees and visitors. The buildings affected are historic structures with powerful symbolic importance that must simultaneously accommodate ongoing legislative work, supporting services, and visitor access. And, of course, securing adequate funding given many competing demands is always a knotty problem. These factors complicate the OOC's already-difficult task of evaluating the effectiveness of hazard abatement proposals offered by the AOC.

The AOC's task is more challenging still. While, in this context, the OOC is charged "only" with enforcing the safety and health protections of the Congressional Accountability Act, the AOC also must consider other priorities: building maintenance, historic preservation, initiatives such as "Green the Capitol," and many more.

In light of these many important and sometimes-conflicting missions, our Office has commenced a comprehensive risk analysis. We are working closely with the AOC to identify projects where temporary adjustments can minimize life safety risks until permanent structural corrections can be made. Together, our offices have begun by pinpointing interim measures for the House Page School in the Thomas Jefferson Building. Those measures are designed to ensure that students and faculty have evacuation routes that minimize the risk of injury until an enclosed exit stairway is constructed. We will continue to work with the AOC to identify other infrastructure hazards whose risks can be reduced by interim abatement measures.

We are also examining AOC's fire prevention programs, which include the installation of sprinklers in legislative branch facilities. Fire prevention is particularly important in historic structures, where repair or replacement is difficult if not impossible. These programs reduce but cannot eliminate the risk that a fire may occur. Accordingly, to protect lives, it is essential permanently to correct hazards such as inadequate exit capacity, stairways not protected from fire and smoke infiltration and the like.

Effective interim measures may not be feasible in every facility. Even the best fire prevention programs cannot guarantee safe evacuation from a structurally-deficient building. Significant, permanent alterations to existing facilities will be required in order to ensure that Capitol Complex occupants may escape a fire safely. No credible risk analysis can overlook these facts. We look forward to continued cooperation with the AOC and other stakeholders to develop an analysis that accounts for these and all other relevant concerns.

We are hopeful that the AOC–OOC risk analysis will be complete by September 1, 2009. Thereafter, the AOC and the OOC look forward to presenting that analysis to the Senate and House Appropriations Subcommittees, as well as to our oversight Committees. Our goal is to provide this and other Committees with the information necessary to ensure that funding is directed toward the highest risks.

Question. Your Board adopted OSH standards in January 1997. Are these the standards that your office applies when you decide to issue a notice of deficiency or a citation? What is the difference between notices of deficiency and citations? Do you hear or review the employing office's responses contesting the merits of these findings? If not you, who, may review these responses? If the response describes a matter that boils down to a difference of opinion or judgment, what deference do you give to the thoughts of the employing office representatives? Is there a way for an employing office to appeal to a higher authority such as a neutral expert or the OOC Board?

Answer. The OOC goes to great lengths to "get it right." It provides multiple opportunities for employing offices to provide information, opinions, suggestions, and criticisms.

Deficiency Notices.—Congress did not adopt the OSH regulations proposed by the OOC Board. The OOC does not issue so-called "notices of deficiency." If an imminent danger is discovered during an inspection the OOC issues a "Notice of Serious Deficiency." The Notice of Serious Deficiency requires the responsible office to abate the hazard within 24 hours; the AOC routinely complies with such a Notice and abates the hazard accordingly. If the hazard does not present so immediate a threat, the OOC instead includes it in the list of hazard "findings" that are included in the final inspection report forwarded to the employing office. This procedure allows employing offices to develop a plan voluntarily to abate the hazard. The vast majority of hazards are abated using this procedure.

Consideration of Employing Offices' Responses.—As noted earlier, the OGC initially allows employing offices to contest any hazard finding found during a Biennial Inspection. Every cover letter sent with the OOC's *Hazard Summary Report* includes information regarding how to contest the finding. If there is a dispute over a finding, for whatever reason, an employing office can appeal to the General Counsel for review. The General Counsel will respond in writing to the employing office and inform them that the hazard has been marked as abated, removed from the list of identified hazards, or remains open because the General Counsel has determined that there is sufficient justification for the finding.

The General Counsel will also afford the employing office an opportunity to set forth its position on the merits of a hazard finding, in writing or face-to-face, if he is considering whether to issue a citation. Even after the citation is issued, the employing office is given the opportunity to present additional information to the General Counsel. The General Counsel gives significant consideration to the information presented by employing offices. A typical citation contains the following language:

“Informal Conference.—At the request of the affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice, including the abatement date. If you decide to request an informal conference, please mail or fax the request to the General Counsel within 10 working days of your receipt of this Citation. See Office of Compliance Rules of Procedure, §4.15.

“During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far.”

Citations.—Under the CAA, the OOC's General Counsel has the authority to issue a citation to any employing office responsible for correcting an OSH violation. 2 U.S.C. section 1341(c)(2). The “history factor,” that is, whether the hazard constitutes a “repeat” or similar/related violation of a type found in past inspections, is one of several factors taken into account in deciding whether to issue a citation. Other factors that the General Counsel considers include whether the identified hazard is particularly serious, or creates an imminent risk to legislative branch employees or the public; whether a broad, systemic remedy may be required; whether an employing office fails to cooperate in an investigation or to take appropriate and timely steps to correct a hazard; or whether the General Counsel determines it is otherwise necessary to effectuate the purposes of the occupational safety and health laws. These criteria were published in the General Counsel's Biennial Report on Occupational Safety and Health Inspections for both the 108th Congress (issued October 2005, pp. 10–11) and 109th Congress (issued April 2008, pp. 4–6).

Appeal Procedure.—While the CAA does not contain an appeal procedure allowing review of the General Counsel's discretionary decision to issue a citation or a complaint [2 U.S.C. §§ 1341(b)(2) and (3)], nevertheless, as indicated previously, employing offices are provided with multiple opportunities, both before and after a citation is issued, to respond by presenting information and evidence to the General Counsel for consideration. In addition to these informal procedures, the CAA provides a formal procedure in the event that a citation is elevated to a complaint. An independent hearing officer has the authority to decide whether a complaint issued by the General Counsel has any merit. See 2 U.S.C. § 1341(c)(3) and 2 U.S.C. § 1405(g). The hearing officer's decision can be appealed to the OOC Board. 2 U.S.C. § 1406.

Variance Requests.—An employing office can also request from the Board an order granting a variance from a standard being applied. See 2 U.S.C. § 1341(c)(4). The Board's final decision is subject to judicial review if a party is aggrieved by the decision. 2 U.S.C. § 1341(c)(5).

Question. If a citation ends up in the issuance of a complaint, do you have access to OSHA experts to serve as hearing officers to judge whether the citation must be obeyed?

Answer. Yes. In the only complaint that has been issued in the history of the OOC, an OSHA expert was contracted to hear the case, but the case was resolved through a comprehensive settlement agreement reached by the parties. I am in the process of developing a master list of experts in technical matters relating to occupational safety and health matters to serve as hearing officers.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

BIENNIAL INSPECTIONS

Question. The Office of Compliance conducts biennial inspections of the Capitol complex. I understand that there are over 9,000 findings in the draft report for the 110th Congress biennial inspection. What are the most serious deficiencies which have been identified? To what extent have these deficiencies been identified in prior inspections? Does it make sense to continue to conduct full-scale biennial inspections, now that the OOC has conducted major campus-wide inspections for the past three Congresses? What is the cost of conducting a biennial inspection?

Answer: Most Serious Deficiencies Identified.—During the 110th Congress Biennial Inspection, the OOC inspection team identified 19 extremely serious safety violations—those classified as Risk Assessment Code (RAC) 1 hazards—the most dangerous category. Those deficiencies included unenclosed stairwells, penetrations in fire barriers, unrated or under-rated fire doors, and other obstructions exposing evacuating employees and visitors to toxic smoke and gasses; deficient emergency notification systems; and failure to provide effective fall protection. Nearly 2,000 other findings were classified as RAC 2 violations. These findings involved (1) damaged or deteriorating transite boards³ (exposing employees and visitors to asbestos fibers); (2) missing, damaged or defective covers, outlets, switches, electrical cords, electrical panels, and plugs (causing risk of electrical shock and fire); (3) lack of effective emergency lighting; and (4) defective or missing machine guards.

Extent that Deficiencies were Identified Previously.—Approximately 90 percent of the RAC 1 hazards identified during the 110th Congress inspection were attributable to previously identified hazards that remained unabated. Between 1,200 and 1,600 of the RAC 2 hazards are related to previously identified hazards, which occur when an employing office abated an identified hazard, but did not address its cause. For example, in response to a hazard finding, the employing office may have encapsulated asbestos from broken transite boards without removing the transite boards themselves. As employees continue to roll heavy carts over these boards, additional cracks develop and more of the asbestos becomes friable (causing further exposure to employees). While the previously identified hazard may have been abated, the cause of the exposure remains unaddressed and exposure to the hazardous substance continues. Other “new” hazards may be similar to previously identified hazards. For example, a GFCI outlet added to a circuit to abate a previously identified hazard may be found to be nonfunctional during a subsequent inspection.

The Need for Major Campus-Wide Inspections.—There is still a need to conduct biennial inspections, but the OOC intends to limit the scope and scale of these inspections in future Congresses.

Comprehensive campus-wide inspections have only occurred during the past two Congresses. The Office of Compliance has just begun its third full-scale, wall-to-wall inspection of the Capitol complex. With the completion of this third inspection, there will exist three independent sets of data that will enable the OOC to conduct a trend analysis of safety and health conditions in the legislative branch. Such an analysis will allow the OOC to determine where progress is being made, what requires closer attention, etc. Further, in jurisdictions where adequate OSH Act mandated safety programs and procedures are in place to protect workers, the risk of serious illness or injuries and, consequently, the necessity for frequent inspections may be substantially reduced as well. Such a risk-based approach will result in more targeted deployment of inspector resources, whether in the nature of the more focused inspections to ascertain the root causes of repeat hazards or the provision of technical and educational assistance to employing offices. Future inspections can be more effectively concentrated on areas presenting the greatest potential risk of illness, death or injury. Some areas may not have to be inspected during each inspection cycle, if previously identified hazards have been abated and the likelihood of recurrence is low. Other high hazard areas may necessitate more frequent inspections to assure abatement has been promptly accomplished. This is particularly important where the continued existence of a hazard may contribute to the creation or exacerbation of a fire hazard in a facility that lacks protected evacuation routes or sufficient egress capacity in the event of a fire. If the data support it, the OOC may not need to inspect every administrative space and office on campus, but rather random sampling may be sufficient to ascertain whether or not new hazards are being created or old hazards repeated. This will permit the OOC to devote more resources to reviewing employing office safety and health programs, focusing inspec-

³A building material used in flooring composed of cement and asbestos that becomes friable when broken.

tions on high risk work areas and procedures, developing new educational materials, and providing more in-depth technical assistance. In making these determinations, it is important that employing offices make, keep and preserve, and provide to the OOC, data which will be needed to develop information regarding the causes and prevention of occupational injuries and illnesses, an OSH Act requirement, 29 U.S.C. 657(c), applicable to the private sector and executive branch agencies, but not required under the Congressional Accountability Act.

The OOC currently lacks sufficient financial resources and necessary statutory authority to fully track and verify abatement information provided by employing offices and then target its inspections accordingly. In its fiscal year 2010 budget request, the OOC has requested funding for a Compliance Officer who would be able to assist in the development and implementation of such a system. See, OOC, *Budget Justification Request for the Committee on Appropriations*, p. 13 (fiscal year 2010). The OOC's recent Section 102(b) Report to Congress (December 2008) proposes several legislative changes that would assist in the development of a targeted inspection system. These changes involve adoption of OSHA's record keeping and reporting requirements. See OOC, *Section 102(b) Report*, p. 10 (December 2008).

The OOC has informed employing offices that future inspections will include a review of the written safety and health programs required by the OSH Act. Due to the number of hazard findings identified in each of the last two Congresses, the OOC believes that many of these hazards could be prevented if needed safety programs were operational in the legislative branch. The inspection team has observed many hazards attributable to the lack of effective OSHA-mandated safety and health programs. Similar hazards recur because employees lack a clear understanding of what the OSHA regulations require of them. We hope that employing offices will cooperate by furnishing information regarding their written safety and health programs. However, as noted, if the CAA were amended as proposed in our *Section 102(b) Report*, the OOC would have access to injury and illness records that we could use to determine whether existing programs are effective in reducing injury, illness, and accident rates as well as a substantial savings in worker compensation and other associated costs.⁴

During the 111th Congress Biennial Inspection, the inspection team is finding fewer hazards as well as increased educational efforts by the employing offices. However, without data from the employing offices showing that they have adequately discovered and abated OSH hazards, the OOC must continue to do what is necessary to ensure a safe and healthy workplace for covered employees. In addition, as noted earlier, the employing offices do not provide the OOC—or perhaps may not make, keep or preserve—injury and illness records that would help us identify the most hazardous areas for more regular inspections and/or offers of technical assistance. Without this information, the OOC must rely upon its biennial and requestor-initiated inspections to provide information regarding workplace safety and building conditions in its biennial report to Congress. Without biennial inspections and the biennial report, Congress would not have the information required to exercise its oversight and appropriation functions.

Finally, the biennial inspection schedule is a relatively inexpensive safety measure. Together with the safety measures implemented by the Architect of the Capitol in recent years, the biennial inspection allows continued and safer occupancy of buildings that have very serious fire and safety deficiencies. Due to the large costs involved in making building modifications that will provide protected egress in the event of a fire or other emergency condition, the OOC has worked closely with the AOC and other covered entities to implement some interim prevention and protection measures to reduce the level of risk to employees and visitors in these buildings with open unprotected stairwells and deficient egress capacity. Improving fire prevention is such a recognized interim measure. The biennial inspection schedule is an integral part of such interim protection because it permits periodic training of a continually changing workforce about emergency procedures and fire prevention measures being implemented in each building. Further, by removing hazards that contribute to the creation or spread of a fire, such as improper wiring, accumulation

⁴During fiscal year 2008, the OOC commenced a study of injury rates and associated costs in employing offices in the legislative branch based upon limited injury rate data available from the Office of Worker Compensation Programs. The Library of Congress, the first office reviewed, implemented safety programs that appeared to contribute to lowering the number of new injuries occurring over the last 7 years. From the preliminary information available to this office, it appears that the LOC achieved significant cost avoidance—in excess of \$11 million—during this period that otherwise would have been incurred but for that agency's efforts to reduce lost time injuries. See *Office of Compliance, Fiscal Year 2008 Annual Report* (March 2009), pp. 13–14.

of paper and other fuel sources, penetration of fire walls, inadequate or damaged fire doors, and blockage of sprinklers, fire prevention is enhanced.

Cost of Conducting a Biennial Inspection.—Most of the funds expended by the Office of the General Counsel are related to the biennial inspection process. The cost of conducting a biennial inspection is difficult to calculate with precision, given the multiple and overlapping elements of the process. We estimate that during fiscal year 2009, the OOC will spend roughly \$1.4 million on the biennial inspection process.

Two FTE's—one inspector and one management analyst—and three contractors are engaged in the inspection process. This process includes (1) inspection preparation, such as reviewing past inspection notes, hazard findings, condition assessments and abatement records; (2) scheduling and coordinating inspections with employing offices; (3) travel time; (4) physically inspecting over 17 million square feet of legislative branch facilities; (5) post-inspection data entry of inspection findings; (6) reviewing data for quality control; (7) preparing Hazard Findings Reports; (8) communicating with employing offices and the AOC about findings and proposed abatement dates; (9) reviewing and resolving disputes over any findings contested by employing offices; and (10) reviewing proposed abatement measures and abatement dates.

In addition, an Administrative Assistant (FTE) and a contract clerical assistant are engaged nearly full time in inspection-related responsibilities. Three FTE attorneys also spend significant time on inspection-related work. Attorneys and inspectors provide technical assistance to employing offices concerning abatement measures, and the development and implementation of OSH-mandated safety programs and procedures. The attorney and inspection staff prepare statutorily-required reports to Congress regarding the biennial inspections. Inspectors, attorneys, and support staff contribute to the preparation of these reports, including reviewing employing office comments on the draft reports in advance of publication. At least 70 percent of the General Counsel and Deputy General Counsel's efforts are related to OSH matters.

The OOC spends funds on equipment used in the inspection, such as electrical testers, industrial hygiene equipment, door pressure gauges and slope meters. Maintaining the FMA database also requires the expenditure of funds.

The value added from these inspections has been proven by the reduction in the number of identified hazards in the last 5 years. The number of hazards dropped by roughly 30 percent between the 109th and 110th Congresses. Moreover, in the 111th Congress, the OOC is already observing a 75 percent reduction of hazards in Member offices compared to the 109th Congress. Because hazards tend to remain unabated absent oversight, we believe it unlikely that such reductions would have been achieved without our biennial inspections. Finally, as noted earlier, the biennial inspection schedule is a relatively inexpensive interim measure that substantially contributes to lowering the risk to occupants of facilities having serious fire and safety deficiencies.

CITATIONS

Question. As you know, AOC puts the highest priority on funding for projects that have received a citation from the Office of Compliance. Are projects with citations necessarily those posing the highest risk to health and safety throughout Capitol facilities?

Answer. Yes. The General Counsel issues a citation when there is a hazard posing a potentially high risk to health and safety. Citations are issued infrequently, 67 in the 13-year history of this Office, particularly given the large number of hazard findings issued during our biennial inspections. Moreover, only a single complaint has been filed—that challenging the AOC's failure to abate longstanding, life-threatening safety and health hazards in the Capitol Power Plant utility tunnels. In contrast, during that period, the OGC has notified the employing offices of many thousands of hazards following the inspection of each facility—13,140 in the 109th Congress biennial inspection and 9,336 in the 110th Congress inspection—all without issuance of a citation.

Both OSHA and the OOC's General Counsel are required to issue citations for every serious hazard identified by inspections. Unlike OSHA, which immediately issues a citation and imposes monetary penalties for every serious hazard identified by its inspections, the General Counsel only issues citations when less formal, non-adversarial means have failed to abate a hazard. The General Counsel notifies the employing offices of hazards requiring abatement rather than routinely issuing citations. Given the vast number of hazards discovered during inspections, the General Counsel has determined that this procedure achieves more expeditious and vol-

untary abatement of hazards. The decision to issue a formal citation or to follow a more informal process lies within the statutory discretion of the General Counsel.

Question. I understand your office has been attempting to do more outreach to the AOC and work in a more cooperative manner. How does OOC decide whether to work with the AOC or issue a citation?

Answer. The OOC goes to great lengths to “get it right.” It offers multiple opportunities for the AOC and other employing offices to provide information, opinions, suggestions, and criticisms. As indicated above, citations are not regularly issued. In fact, only one citation has been issued since December 2006. The OOC is continually exploring with the AOC and other offices creative ways to work more cooperatively. The OGC offers employing offices the opportunity to contest any hazard finding found during a biennial inspection. Every cover letter sent with the OOC’s *Hazard Summary Report* includes information regarding how to contest the finding. If there is a dispute over a finding, for whatever reason, an employing office can appeal to the General Counsel for review. The General Counsel responds in writing to the employing office and informs them that the hazard has been marked as abated, removed from the list of identified hazards, or remains open because the General Counsel has determined that there is sufficient justification for the finding.

The General Counsel also affords the employing office an opportunity to set forth its position on the merits of a hazard finding, in writing or face-to-face, if he is considering whether to issue a citation. Even after the citation is issued, the employing office is given the opportunity to present additional information to the General Counsel. A typical citation contains the following language:

“Informal” Conference.—At the request of the affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice, including the abatement date. If you decide to request an informal conference, please mail or fax the request to the General Counsel within 10 working days of your receipt of this Citation. See Office of Compliance Rules of Procedure, §4.15.

During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far.”

As indicated above, the General Counsel will only issue a citation when the identified hazard is particularly serious or creates an imminent risk to legislative branch employees or the public; when the hazard constitutes a “repeat” or similar or related violation of the type found in past inspections or when a broad, systematic remedy may be required; when an employing office fails to take appropriate and timely steps to correct a hazard; or when he determines it is otherwise necessary to effectuate the purposes of the occupational safety and health laws.

Question. Can OOC do more to work with AOC in a flexible manner—without jeopardizing serious health and safety considerations—to ensure we fund those projects that are truly aimed at the highest risks?

Answer. Yes. The Office of Compliance does work with the AOC, as well as other offices, in a flexible manner to ensure that its abatement efforts are focused on the highest risks, i.e., the fire and life safety hazards that the Office identified in the U.S. Capitol, Senate and House Office Buildings, and Library of Congress buildings. The OOC identified these hazards in 2000 and 2001; they are the subject of open Citations 16–19 and 29–30. The AOC historically has determined what to include in its budget request. It is the AOC that has set funding priorities among citation abatement projects. The OOC traditionally has not been involved in the AOC’s process of setting priorities among those projects.

At the request of staff from this Subcommittee and their counterparts in the House, the OOC and AOC recently have begun an effort to assess the relative risks posed by these open citations, with the goal of informing the process of setting funding priorities. We are working closely with the AOC to identify projects where temporary adjustments can minimize life safety risks until permanent structural corrections can be made. For example, our offices began by pinpointing interim measures for the House Page School in the attic of the Thomas Jefferson Building, which can be evacuated only via a spiral staircase. The interim measures are designed to ensure that students and faculty have evacuation routes that reduce the risk of injury until an enclosed exit stairway is constructed.

We will continue to work with the AOC to identify other infrastructure hazards whose risks can be reduced by interim abatement measures. We are hopeful that the AOC–OOC risk analysis will be complete by September 1, 2009. Thereafter, the AOC and the OOC look forward to presenting that analysis to the Senate and House

Appropriations Subcommittees, as well as to our respective oversight Committees. Our goal is to provide this and other Committees with the information necessary to ensure that funding is directed toward the highest risks.

Our analysis will include an examination of AOC's fire prevention programs, which include the installation of sprinklers in legislative branch facilities. Fire prevention is particularly important in historic structures, where repair or replacement is difficult if not impossible. These programs reduce but cannot eliminate the risk that a fire may occur, and if occurring, may be contained in scope. Accordingly, to protect lives, it is essential permanently to correct hazards such as inadequate exit capacity, stairways not protected from fire and smoke infiltration and the like.

Effective interim measures may not be feasible in every facility. Even the best fire prevention programs cannot guarantee safe evacuation from a structurally deficient building. Significant, permanent alterations to existing facilities will be required in order to ensure that Capitol Complex occupants may escape a fire safely. No credible risk analysis can overlook these facts. We look forward to continued cooperation with the AOC and other stakeholders to develop an analysis that accounts for these and all other relevant concerns.

Question. Under current law, can OOC take into consideration the importance of undertaking projects in a coordinated, risk-based manner?

Answer. As noted above, despite the time limitations imposed by the CAA, and understanding the importance of undertaking projects in a coordinated, risk-based manner, the OOC has worked with the AOC to implement interim measures to reduce the degree of risk to occupants of buildings with known safety and fire hazards requiring expensive alterations that will take more than one Congress to complete. Ordinarily, a citation sets forth the date by which abatement must be completed by the office responsible for correcting the hazard. In setting that date, the General Counsel takes into account whether full or partial abatement is achievable within that timeframe. The employing office may challenge the time set by the citation by submitting a request for modification of abatement, and if the request is not granted, an enforcement proceeding may resolve that issue. The GAO addressed this question in a Briefing for Congressional Staff, *AOC's Process for Prioritizing Capital Projects* (September 2008) as follows:

While it is clear that AOC is statutorily required to correct violations of health and safety standards, it is not clear as to when the statutory compliance requirement begins if new appropriated funds are needed because of the statutory enforcement framework regarding the OOC process for citations, complaints, and orders. While 2 U.S.C. §1341(c)(6) sets a deadline using "the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review," the OOC GC sets a time limit for corrective action consistent with OOC's regulations in its citations, complaints, and orders, which could be longer than the statutory timeframe. For example, to resolve the complaint for hazards in the Capitol Power Plant utility tunnels issued by OOC GC, the OOC GC and AOC entered into a settlement agreement that set a 5 year time limit for corrective action by May 2012, which a hearing officer ordered the AOC to comply with, whereas a literal interpretation of the statutory timeframe would require corrective action by October 1, 2008. For budgetary decisions, it is unclear whether AOC has to correct the violations: using the date of the citation or order, or the date stipulated by the OOC in citation or order. Using either time limit though, AOC must take steps to obtain sufficient funding to correct the violations, such as including amounts in its budget request; however, Congress is not required to appropriate funds to cover the corrective actions.

Question. Are there statutory changes needed to ensure we aren't holding the Legislative Branch to a higher (or different) standard than GSA or private sector buildings? Please be specific.

Answer. The OSHAct imposes a "General Duty" upon all employers (including executive branch departments and private employers) "to furnish a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm to employees" and requires employers to comply with regulations issued by the Secretary of Labor (OSHA Regulations). The Congressional Accountability Act (CAA) imposes this "General Duty Clause" upon each employing office and each covered employee. However, the CAA does not apply to the legislative branch the many specific mandates that the OSHAct imposes in the executive branch.

While the general duty imposed upon all employers (private sector, executive branch and legislative branch) is the same—compliance with Section 5 of the OSHAct by furnishing a place of employment free from hazards—the specific mandates imposed upon the executive branch are quite extensive due to the provisions of OSHAct § 19 and 29 CFR § 1960. The following table illustrates the differences

between the OSH requirements for the executive branch (as mandated by 29 CFR § 1960) and the requirements for the legislative branch.

<p>To comply with Section 5 of the OSHA Act (as mandated by 29 CFR § 1960), executive branch departments are required to:</p> <p>Submit to inspection by agency safety and health inspectors at least annually.</p> <p>Designate an "Agency Safety and Health Official" (holding the rank of Assistant Secretary or equivalent) who will carry out provisions of 29 CFR § 1960, Executive Order 12196, and Section 19 of the OSHA Act. A principal role for this official is to provide "adequate budgets and staffs to implement the occupational safety and health program at all levels".</p> <p>Establish safety and health officials at each appropriate level with sufficient authority and responsibility to plan for and assure funds for necessary safety and health staff, materials, sampling, testing, analyses, travel, training and equipment required to identify, analyze and evaluate unsafe or unhealthful working conditions and operations</p> <p>Ensure that performance evaluations of management and supervisory officials measure their effectiveness in meeting the requirements of the occupational safety and health program</p> <p>Make available the agency's occupational safety and health plan to employees and employee representatives upon their request</p> <p>Post a conspicuous notice informing employees of the Act, Executive Order and agency occupational safety and health program, and relevant information about safety and health committees</p> <p>Adopt emergency temporary or permanent supplementary standards appropriate for application to working conditions of agency employees for which there exist no appropriate OSHA standards</p> <p>Provide safety and health inspectors with safety and health hazard reports, injury and illness records, previous inspection reports, and reports of unsafe and unhealthful working conditions</p> <p>Post notices of unsafe or unhealthful working conditions that are identified by the agency's internal safety and health inspectors. These posters must remain until after the hazard has been abated</p> <p>Investigate working conditions, which employees have reported unsafe or unhealthful, within 24 hours to 20 working days, depending on the potential seriousness of the conditions. These investigations must be made available to the employee within 15 or 30 working days depending on the condition's severity</p> <p>Investigate each accident that results in a fatality or in the hospitalization of three or more employees</p> <p>Establish procedures to follow up, to the extent necessary, to verify that hazardous conditions have been abated</p> <p>Prepare an abatement plan that includes a proposed timetable for abatement, an explanation of any delays in the abatement, and a summary of interim steps to abate the hazard</p> <p>Regularly inform established committees and/or employee representatives of the progress on abatement plans</p> <p>Either establish safety and health committees or be subject to unannounced inspections by OSHA. These committees, which have equal representation by management and non-management employees, monitor the performance of agency-wide safety and health programs</p> <p>Participate in the Safety, Health, and Return-to Employment (SHARE) initiative which requires: (1) the establishment of goals and plans for reduction of injuries and illness; and (2) reporting on progress made toward meeting the established goals. The goals for 2004-2009 were to: (1) reduce by 3 percent the total number of employee injuries per year; (2) reduce by 3 percent the annual lost time due to worker injuries; and (3) reduce by 1 percent the total number of annual lost production days due to worker injuries. (Established by Presidential Memoranda on 1/9/2004 & 9/29/2006)</p>	<p>To comply with Section 5 of the OSHA Act, legislative offices are required to:</p> <p>Submit to inspection by the OOC at least biennially.</p>
---	---

The legislative branch is also required to comply with fewer mandates than the private sector. Unlike private sector employers, the employing offices covered by the CAA are not required to comply with OSHA § 8(c) [29 U.S.C. § 657(c)]. That provision requires employers to maintain and provide to the Secretary of Labor records regarding employee injuries and illnesses.

The OOC's recent Section 102(b) Report to Congress (December 2008) proposes to apply OSHA's recordkeeping and reporting requirements to the employing offices covered by the CAA. See OOC, *Section 102(b) Report*, p. 10 (December 2008). Under the current statutory scheme, employing offices are not required to make, keep, preserve, or provide to the OOC records deemed necessary for enforcement of OSH Act Section 5, including records on work-related deaths, injuries and illnesses, and records of employee exposure to toxic materials and harmful physical agents. Similarly, under the current scheme, the OOC is unable to consider any inspection findings of safety professionals in the employing offices because employing offices do not share their inspection findings with the OOC. In addition, neither the AOC nor any other covered employing office provides the OOC with injury and illness records that are necessary for strategically determining what areas should be inspected more regularly or provided more technical assistance. This information is not required to be compiled or disclosed under the CAA, and without it, the OOC depends on its biennial inspections to provide information regarding building conditions and workplace safety to Congress.

RISK-BASED APPROACH TO SAFETY WORK

Question. How do you prioritize your safety-related inspections work? Are you able to give priority to facilities that may be lacking certain safety features, such as fire sprinklers, or having a greater number of occupants and visitors exposed to safety issues? If not, are legislative changes needed?

Answer. As noted above, the OOC has just begun its third comprehensive, wall-to-wall inspection of the Capitol complex. This inspection will provide a third set of data which will be used to develop a more focused risk-based inspection schedule. As also noted above, under the current statutory scheme, employing offices are not required to make, keep, and preserve, or provide to the OOC, records deemed necessary for enforcement of OSH Act Section 5, including records on work-related deaths, injuries and illnesses, and records of employee exposure to toxic materials and harmful physical agents. Requiring the employing offices to maintain and disclose such records would greatly assist the OOC in strategically planning what areas should be inspected more regularly or provided more technical assistance. This is a legislative change the OOC has previously suggested in its *Section 102(b) Report*, p. 10 (December 2008).

Under the CAA, the OOC is also required to inspect and investigate places of employment in response to a written request from an employing office or a covered employee. CAA § 215(c)(1), 2 U.S.C. § 1341(c)(1). Requestor-initiated inspections are therefore also given priority regardless of whether the building has sprinklers or low occupancy rates.

Finally, in buildings with known fire and safety hazards, the OOC and the employing offices have implemented interim prevention and protection measures to provide relatively safe occupancy. These interim safety measures often include frequent inspections and training. Buildings that lack sprinkler coverage in whole or in part, and/or have higher occupancy rates, are given a higher priority when determining the frequency of these types of inspections.

SUBCOMMITTEE RECESS

Senator NELSON. The subcommittee will stand in recess until 2:30 p.m. on May 21, 2009, when we will meet to take testimony on the fiscal year 2010 budget requests of the Government Accountability Office, the Government Printing Office, and the Congressional Budget Office.

It is recessed. Thank you.

[Whereupon, at 3:55 p.m., Thursday, May 7, the subcommittee was recessed, to reconvene at 2:30 p.m., Thursday, May 21.]