

**Statement of Douglas N. Letter, General Counsel
Office of General Counsel
U.S. House of Representatives
Before the Legislative Branch Subcommittee
of the Committee on Appropriations
Regarding Fiscal Year 2023 Budget Request of the Office of General Counsel**

Chairman Ryan, Ranking Member Herrera Beutler, and Members of the Subcommittee. Thank you for the opportunity to present and explain the fiscal year 2023 (FY 2023) budget request of the Office of General Counsel (“OGC”). For FY 2023, OGC requests \$1,912,000 – \$1,716,000 for personnel costs and \$196,000 for non-personnel costs. OGC’s FY 2023 budget request represents a flat-level request as based upon FY’22 enacted funds. A justification of the FY 2023 budget request appears below.

Functions of the Office

Pursuant to Rule II.8(a) of the Rules of the House of Representatives (117th Cong.), OGC is an office in the House that provides legal advice and representation to the House, and as appropriate to its Members, Committees, Officers, and employees, without regard to political affiliation, on matters related to their official duties. OGC functions pursuant to the direction of the Speaker, who, with respect to litigation matters involving the House, consults with the Bipartisan Legal Advisory Group (consisting of the Speaker, the Majority and Minority Leaders, and the Majority and Minority Whips). *See* House Rule II.8(a), (b). While it is difficult to furnish an exhaustive list of the types of advice and representation that OGC provides, OGC addresses the following matters with some frequency:

- **Judicial Proceedings:** OGC represents the House in litigation, and also represents Members, Committees, Officers, and employees, both as parties and as non-party witnesses, in litigation arising from or relating to the performance of their official duties, at the pre-trial, trial, and appellate levels. Among other responsibilities, OGC defends civil suits; moves to quash or limit subpoenas; represents the House and its Committees in suits for affirmative relief, such as enforcement of House subpoenas; represents the House in defending Acts of Congress that the Department of Justice has declined to defend; files amicus curiae briefs on behalf of the House or one or more of its constituent entities in cases that raise issues of significant institutional interest to the House and its Members; and applies to district courts, on behalf of Committees and Subcommittees, for immunity orders for witnesses.
- **Committee Subpoenas:** OGC provides advice to House Committees and Subcommittees in connection with the preparation, service, and enforcement of Committee and Subcommittee subpoenas, including advice and assistance in dealing with recalcitrant witnesses.

- **Requests for Information:** OGC provides advice and representation to House Members, Committees, Officers, and employees in connection with responses to informal and formal requests for information (e.g., grand jury subpoenas, trial and deposition subpoenas, FOIA requests) from governmental agencies (including the Department of Justice), as well as from private parties.
- **Privileges:** OGC provides advice regarding the applicability of various privileges including, most particularly, the Speech or Debate Clause privilege (U.S. Const. art. I, § 6, cl. 1), but also executive, Fifth Amendment, attorney-client, attorney work product, and other privileges.
- **Tort Claims:** OGC reviews and evaluates tort claims for possible administrative resolution by the Committee on House Administration and, where appropriate, refers such claims to the Department of Justice for defense under the Federal Tort Claims Act, and then assists the Department with such defense.
- **Tax Matters:** OGC advises House offices and vendors regarding applicable tax exemptions for official purchases.
- **Constituent Casework:** OGC provides advice to Members and their staffs about the handling of constituent casework, including responding to questions that concern the confidentiality and discoverability of constituent communications and information.
- **Internal Policies:** In consultation with the Speaker's office and other leadership offices, OGC assists in drafting, amending, and evaluating internal House policies, rules, and regulations.
- **Formal Legal Opinions:** From time to time, OGC issues formal legal opinions on matters of interest to the House, Members, Committees, and/or Officers, including whether proposed legislation raises constitutional questions.
- **Social Media Guidance:** OGC advises Members, Committees, Officers, and staff regarding best practices for official social media platforms. There has been a considerable uptick in litigation involving social media accounts as well as in requests for best practices and guidance to ensure proper usage of social media by House Members and staff.
- **Other Matters:** OGC provides a great deal of day-to-day advice on a wide variety of other legal matters including, but not limited to, immigration, intellectual property, debt collection, jury duty, landlord/tenant disputes, and miscellaneous constitutional and separation of powers issues.

Demand for OGC's services has been extensive in recent years, as has the number of complex and high-profile legal matters the office has been asked to handle.

Justification for the FY 2023 Funding Level

At normal staffing levels, OGC is composed of the General Counsel, Principal Deputy General Counsel, several senior attorneys with extensive legal experience, together with law clerks, and an office administrator/member services director.

Based on the proposed funding level, OGC expects to be able to continue the same level of effective service it currently provides to the House. The significant bulk of OGC's budget request goes toward the personnel compensation needed to retain highly qualified attorneys and staff who handle the bulk of OGC's workload.

As noted in our budget request, there exists a distinct probability that OGC will be required to undertake significant litigation in the upcoming fiscal year. Such litigation may include cases in which the House authorizes OGC to initiate litigation, intervene or file amicus briefs in pending cases, or seek judicial enforcement of subpoenas issued by various House Committees. In past years, expenditures for outside counsel have often necessitated the reprogramming of funds to increase OGC's budget.

OGC proposes to handle this litigation in several possible ways. First, to the extent practicable, matters will be litigated by OGC attorneys and law clerks. In some circumstances, cases might be handled by OGC attorneys working with private attorneys from law firms or public interest litigation groups. OGC reasonably expects that, where necessary, substantial legal services will continue to be provided to the House by private attorneys on a pro bono basis, meaning that the House will not be billed for these services. However, some matters may require OGC to enter into contracts for paid legal services with private attorneys.

I would be pleased to respond to any questions the Subcommittee might have for me today. Thank you for your due consideration, it is an honor to serve the House.