

**Statement of
Patrick N. Findlay
Executive Director
Office of Congressional Workplace Rights**

**Before the
Subcommittee on the Legislative Branch
Committee on Appropriations
U.S. House of Representatives**

**At a Hearing Entitled
“Budget Hearing – Fiscal Year 2024 Request for the Office of Congressional Workplace
Rights”**

**Presented
March 8, 2023**

Chairman Amodei, Ranking Member Espaillat, and Members of the Legislative Branch Subcommittee, thank you for providing me the opportunity to submit this statement regarding the Office of Congressional Workplace Rights (OCWR) budget request for Fiscal Year 2024. We appreciate this Subcommittee’s steadfast support as we carry out our indispensable mission to advance workplace rights, safety and health, and accessibility in the legislative branch.

For FY 2024, the OCWR requests funding of \$8,549,646, of which \$2.5 million would remain available until September 30, 2025. This represents an increase of 6.87 percent above FY 2023 levels.

I. The OCWR’s Statutory Mandate

Congress passed the Congressional Accountability Act (CAA) more than 25 years ago with overwhelming bipartisan support. The CAA embodies Congress’s ongoing promise to the American public that it will hold itself accountable to the same federal workplace and accessibility laws that it applies to executive branch agencies and private sector employers. These laws prohibit discrimination, harassment, and retaliation in the congressional workplace; they promote equal employment opportunity, including providing enhanced access to job opportunities for veterans; they govern working conditions on the Hill and in congressional offices throughout the country, including minimum wage and overtime compensation, job-protected leave, and unionization; and they require hazard-free workplaces in the legislative branch, as well as public services and facilities that are accessible to people with disabilities.

Congress established the OCWR as the independent, nonpartisan office to administer the CAA. With only 34 authorized FTEs, we are a tiny office with a broad mandate. We perform many of the same functions for the legislative branch as do multiple agencies for and within the executive branch, including the Equal Employment Opportunity Commission (EEOC), the Federal Labor Relations Authority, the Occupational Safety and Health Administration, and other components of the Department of Labor.

To meet the mission Congress assigned our office, the OCWR operates in several distinct but complimentary mission spaces.

- We develop and provide outreach, education, and training tailored to the needs of the legislative branch community. These informational programs promote workplace rights, encourage the creation of hazard-free and accessible workplaces, and prevent disputes from arising in the first place.
- We provide individual confidential advising services to covered employees, on a privileged and confidential basis, to advise individuals about their rights and responsibilities under the CAA in light of their particular circumstances.
- We operate an Administrative Dispute Resolution (ADR) program, which includes voluntary mediation and administrative hearings, to resolve claims brought under the CAA.
- Our Office of General Counsel (OGC) investigates alleged violations of laws governing hazard-free workplaces, accessibility, and unionization, and prosecutes violations of such laws. OGC also inspects more than 18 million square feet of facilities and grounds in the legislative branch to ensure that they are and remain hazard free and accessible.
- Our Board of Directors proposes and, upon congressional approval, promulgates regulations to implement the various statutes applied to the legislative branch through the CAA. The CAA also requires our Board to make recommendations each Congress of actions Congress can take to ensure the protections and responsibilities applied through the CAA are equivalent to those applicable to the private sector and the executive branch.
- We also administer the statutorily-required biennial Congressional Workplace Climate Survey to more than 30,000 legislative branch employees, assessing the workplace environment, including attitudes regarding sexual harassment.

II. The OCWR's FY 2024 Budget Request

The OCWR's budget request for FY 2024 represents OCWR's continued focus on its statutory mandates and on improving the delivery of services to stakeholders in the legislative branch. It does not embody any significant new program areas or large-scale initiatives.

Of the total FY 2024 request amount, the OCWR requests that \$2,500,000 remain available until September 30, 2025. This flexibility is especially crucial to cover costs for the services of essential contractors, including hearing officers, mediators, inspectors, and for the ongoing costs associated with administering the biennial climate survey of the legislative branch work environment, because the timing of these expenses is not entirely within the OCWR's direct control.

A. Personnel Costs

The OCWR depends heavily on its permanent staff to accomplish the varied mission Congress assigned to the OCWR as I discussed above. As a result, the majority of the OCWR's annual budget is for personnel costs, including pay and benefits, for the OCWR staff. Specifically, approximately 61 percent of the OCWR's FY 2024 budget request, or \$5.2 million,

is for costs associated with 34 authorized full-time equivalent (FTE) employees, which includes the five part-time Board members, who serve on a “when-actually-employed” basis and together comprise one of the FTEs.

Because it is crucial for the OCWR to recruit and retain highly skilled professionals to carry out its mission, the amount the OCWR requests for FY 2024 represents an increase of 6.7 percent, or \$325,922, above the FY 2023 appropriated level. This increase incorporates a 5.5 percent across-the-board pay increase based on Congressional Budget Office projections.

B. Non-Personnel Costs

The remaining approximately 39 percent of the OCWR’s budget request, or approximately \$3.3 million, covers anticipated non-personnel costs necessary to administer OCWR programs. These costs include contract services, including contracted pay for our Hearing Officers and mediators in our ADR program, and for other contract services, equipment, and supplies needed to operate the OCWR. These non-personnel costs also cover costs associated with our interagency agreements for services provided to the OCWR by partner federal agencies, including the Library of Congress and the National Finance Center.

I highlight some of the especially significant non-personnel costs below.

i. Administrative Dispute Resolution

The OCWR requests \$450,000 for non-personnel services for FY 2024 for the administration of its ADR processes. This amount includes funding to pay the contract rates for our Hearing Officers and mediators. It also includes funding for technical services and necessary updates to support the operation of the ADR e-filing system.*

With respect to the ADR non-personnel cost projection, I note that it is impossible to predict with certainty the number of cases claimants will file with the OCWR’s ADR program each year. In light of that, we based the ADR non-personnel estimate upon average actual expenditures in FY 2021 and FY 2022.

While we believe relying on FY 2021 and FY 2022 as guides for FY 2024 is reasonable, there is some risk that cases could climb, or fall, from the caseload that sustained the FY 2021 and FY 2022 costs. We note that claims filed in FY 2022 more than doubled over FY 2021, from 19 to 39. Related metrics also increased markedly in FY 2022 over FY 2021. Requests for Confidential Advising increased approximately 59% from FY 2021 to FY 2022 from 66 to 105 requests. Similarly, requests for voluntary mediation more than doubled from 11 in FY 2021 to 23 in FY 2022.

A marked increase in caseload during FY 2023 or into FY 2024 would likely lead the OCWR to use multiyear money to make up the gap, requiring a correspondingly larger request for next fiscal year. On the other hand, a marked decrease in caseload could lead to a larger

* The requested amount does not include non-personnel costs associated with the Board of Directors’ function as the reviewing body for claims that are appealed from OCWR hearing officers under the ADR program.

amount of this estimate carrying over as multiyear money, thereby leading the OCWR to request a correspondingly lesser amount next fiscal year.

ii. General Information Technology, Communications, and Web Services

IT modernization and security continues to be a key focus for the OCWR. The OCWR administers a local area network, inclusive of personal computers for employees and a number of on-site contractors, and the hardware and software required to support the network. The OCWR requests approximately \$1.6M for non-personnel services for FY 2024 for information technology equipment and operations. These non-personnel costs cover the necessary equipment, contractor, and interagency agreement costs to facilitate these efforts, which are in addition to the costs specifically for contractor support of the ADR e-filing system. This part of the non-personnel request also includes periodic upgrades to the OCWR's communications systems and website and the estimated costs of future enhancements to the Risk Management Suite used by OCWR safety professionals.

iii. Education and Training

Among the OCWR's significant responsibilities is its statutory mandate to provide a program to educate Members of Congress and legislative branch staff on their rights and responsibilities under the CAA. OCWR trainers deliver remote and in-person training sessions tailored to meet the unique needs of legislative branch stakeholders. Demand for OCWR training and outreach services continues to increase, and the OCWR has continued to enhance its training program, delivering new and informative modules via web-conferencing, in-person sessions, and on-line videos.

The OCWR requests \$350,000 for non-personnel services for FY 2024 to facilitate OCWR staff in support of this program. These non-personnel costs include contracts for editing, website operation and updates, along with development and refreshing training videos and materials.

iv. Congressional Workplace Climate Survey

As I noted above, the OCWR is responsible for administering the biennial Congressional Workplace Climate Survey. This confidential survey of legislative branch employees covers the workplace environment. \$260,000 of the requested non-personnel amount would be used to pay for services necessary for OCWR staff to construct, administer, and tabulate the survey.

v. Inspecting Legislative Branch Facilities

The OGC is responsible for inspecting all facilities in the legislative branch for occupational safety and health violations at least once each Congress. The OGC is also responsible for inspecting the public areas of all facilities in the legislative branch for compliance with titles II and III of the Americans with Disabilities Act. The judicious use of external contractors substantially enhances the OGC's capability to meet these mandates. As such, the non-personnel allocation includes \$300,000 to cover the cost of hiring contractors to assist in the conduct of investigations requiring special expertise.

vi. *Miscellaneous Expenses*

The remaining projected non-personnel costs would pay for contract services, including cross-servicing providers, such as the Library of Congress and the National Finance Center, and other services, equipment, and supplies needed to operate the OCWR.

III. Conclusion

The OCWR is committed to continuing to fulfill our crucial mission in the coming fiscal year. I believe this budget request will allow the OCWR to succeed while remaining efficient and serving as a responsible steward of taxpayer's money. As such, I respectfully ask for your support of this request. I look forward to providing this Subcommittee with any additional information it may require at this hearing and the coming days as part of the appropriations process.

Thank you.