

February 26, 2013

Chairwoman Barbara Mikulski and Ranking Member Richard Shelby  
Appropriations Committee  
United State Senate  
Room S-128, The Capitol  
Washington, D.C. 20510

Chairman Frank Lautenberg and Ranking Member Mike Johanns  
Financial Services and General Government Subcommittee  
Appropriations Committee  
United States Senate  
133 Dirksen Senate Office Building  
Washington, D.C. 20510

Chairman Harold Rogers and Ranking Member Nita Lowey  
Appropriations Committee  
United States House of Representatives  
H-307, The Capitol  
Washington, D.C. 20515

Chairman Ander Crenshaw and Ranking Member Jose Serrano  
Financial Services and General Government Subcommittee  
Appropriations Committee  
United States House of Representatives  
B-300 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairs and Ranking Members:

As you contemplate another continuing resolution for Fiscal Year 2013, our undersigned organizations which are deeply interested in government accountability urge you to increase funding for the Office of Special Counsel (OSC). We should be investing in this government watchdog with a mission to protect whistleblowers because it is extremely effective and does valuable work that returns dividends to taxpayers. The OSC requires additional funding for FY13 in order to manage the expanded workload recently mandated by Congress in the Whistleblower Protection Enhancement Act (S. 743, WPEA).

On November 27, 2012 the WPEA was signed into law. It restored and expanded protections for federal workers who blow the whistle of government waste, fraud, abuse, and illegality. The reforms will result in more whistleblowers coming forward, and thus more cases filed with OSC, due to greater confidence in strengthened protections. WPEA makes changes to legal standards in the whistleblower law, which will increase the number of cases in which OSC conducts full investigations, significantly increasing the number of staff hours and resources dedicated to cases that would otherwise have been closed. Congress clarified and added to the personnel practices that are prohibited in response to

disclosures of wrongdoing, and therefore can be investigated by the OSC. The law also expands the OSC's jurisdiction by extending protections to over 50,000 passenger and baggage screeners working for the Transportation Security Administration. And finally, Congress reversed court decisions that had undermined the law. To defend and preserve the intent of Congress, the OSC may have to pursue more litigation, including more formal disciplinary action cases aimed at deterring prohibited personnel practices.

The amount current budgeted amount for the OSC for FY13 does not reflect OSC's expanded role and responsibilities under the new law, which was passed long after the original budget requests were made. Because enacting the bill would increase the workload of the MSPB and OSC, CBO estimated that fully implementing the legislation would require those offices to spend about \$2 million a year to hire additional professional and administrative staff to handle additional cases. We believe these estimates are conservative.

It is important to contextualize how increasing funding for government watchdogs like OSC yields significant returns. Whistleblower disclosures to OSC have resulted in tremendous savings for the federal government by promoting efficiencies and preventing catastrophic harm. In stopping the wasteful practice a whistleblower uncovers, OSC provides an immediate cost savings to taxpayers. In shifting agency policies based on the findings of their investigations, OSC delivers systemic corrective actions that yield long-term savings. Further, Inspectors General cannot function without help from OSC, and GAO has found that IGs return about \$18 for every dollar invested. What's more, OSC enhances the overall quality of government services and protects those who protect our health, safety, and security—a value that cannot be quantified.

With a budget that has stayed almost flat since 2008 and a ballooning caseload, OSC has an immediate need for increased funds. In the first quarter after the WPEA was passed, OSC received the single highest number of quarterly filings in the Office's 35 year history, and they expect the upward trend to continue. The increase is likely due in part to the federal workforce's growing confidence in the OSC's leadership and record of handling cases fairly, efficiently, and competently.

Even prior to passage of the WPEA, OSC was already seeing dramatic increases in its caseload in all program areas. Overall in FY 2012, OSC received nearly 4,800 cases, representing a 19% increase from the prior fiscal year and an all-time high. In FY 2012, OSC received nearly 3,000 prohibited personnel practice (PPP) complaints (compared with 1,500 in FY 2002). In FY 2012, OSC received 1,150 whistleblower disclosures—the first time in OSC's history that the number of disclosures hit the 1,000 mark.

Even with this expanding caseload, OSC's productivity is at an all-time high. OSC has seen a remarkable 52% increase in productivity since FY 2008. So the Office of Special Counsel is not simply taking on more, but also handling cases more efficiently.

OSC also set an agency record for favorable actions on behalf of employees and the merit system last year, securing 159 favorable actions in PPP cases—an 89% increase from FY

2011. This good work is sure to encourage more whistleblowers to seek help from the OSC. But this small agency is at full capacity—without more staff, they simply cannot do more cases.

Ultimately, we know that investing in watchdogs saves taxpayer dollars. Congress created a framework for greater government accountability, and now must properly fund it. Increasing funding for the Office of Special Counsel will not only ensure that federal whistleblowers finally get the protections they deserve under the law, but that the federal government will be better equipped to root out pernicious waste and defend public health and safety.

We hope you will ensure that the OSC receives additional funds in FY13—in an amount equal to the CBO estimate for implementation of the WPEA. Especially during these times of fiscal austerity it is important to invest in aspects of government that return savings to taxpayers. If you wish to discuss these issues further, please contact the POGO's Director of Public Policy Angela Canterbury at [acanterbury@pogo.org](mailto:acanterbury@pogo.org) or 202-347-1122.

Sincerely,

Government Accountability Project (GAP)  
Liberty Coalition  
OpenTheGovernment.org  
Project On Government Oversight (POGO)  
Public Citizen  
Taxpayers Protection Alliance

cc: Jeffrey Zients, Director, Office of Management and Budget  
Chairman Thomas Carper and Ranking Member Tom Coburn, Senate Homeland Security and Governmental Affairs Committee  
Chairman Darrell Issa and Ranking Member Elijah Cummings, House of Representatives Oversight and Government Reform Committee  
Special Counsel Carolyn Lerner