

TESTIMONY OF

ORRIN B. MAC MURRAY, P.E., FACEC
CHAIRMAN
C&S COMPANIES

Before the committee on Oversight and Government Reform, subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending on Wednesday, April 20, 2011, at the Southside Innovation Center, Syracuse, New York.

Good afternoon. My name is Orrin MacMurray, and I'm the Chairman of the Board for the C&S Companies, headquartered here in Syracuse. C&S is a family of companies providing architectural, engineering, construction management and construction services to municipalities, industry, developers, state and federal government, and the military. We have nine full-time offices and numerous project offices supporting projects throughout the United States, from Maine to Southern California and from Alaska to Florida.

C&S has a staff of nearly 500, the majority of which provide design and construction services to government. As such, these hearings today provide an important opportunity for us to share thoughts with you related to how regulatory impediments can affect job creation and our business in the Northeast and across our country.

GOVERNMENT COMPETITION WITH THE PRIVATE SECTOR – Various presidential memoranda and federal agency guidance documents seek to bring work of a commercial nature “in house”, to be performed by government employees. C&S is opposed to this effort. Government performance of commercial activities is especially harmful to private-sector firms, such as ours, that provide these services. According to inventories compiled under the Federal Activities Inventories Reform (FAIR) Act, there are still more than 850,000 federal employees engaged in activities that are commercial in nature. This places a heavy and needless burden on taxpayers who are looking for ways to reduce the size of government, not increase it.

There are many reasons why in-sourcing of infrastructure engineering services is a threat to our economy. Critical infrastructure improvements require specialized and innovative design services that are readily available in the private sector. These services can be provided at an overall life-cycle cost that is lower than that from the public sector. A study recently completed by the Department of Civil Engineering at the Polytechnic Institute of New York University concluded that “the in-house engineer actual expected costs to the taxpayer exceeds the cost of a private engineer by at least 15%”. In addition, each project has a finite lifespan, and contracting out design and construction services allows the government to pay for only those resources it needs to accomplish a specific project. In the final analysis, the design and construction of publicly owned infrastructure is not an “inherently governmental” function and, therefore, taxpayers shouldn't be asked to pay for unnecessary government costs.

OVERHEAD CALCULATIONS FOR FEDERAL PROJECTS – The Federal Acquisition Regulations (FAR) provide guidance for the calculation of overhead costs that may be reimbursed by the federal government on federally aided projects. Design and construction companies use these regulations to calculate acceptable charges when designing airports, highways, bridges, wastewater facilities, and many other types of infrastructure projects. These regulations are interpreted by states in different ways. Companies such as C&S provide services broadly across the country. This creates an undue burden to businesses like ours, as we are required to develop multiple auditable documentation to satisfy multiple interpretations, all while complying with the same Federal Acquisition Regulation. One calculation and one auditable amount should suffice anywhere in the country and would result in significant savings, not only to businesses such as C&S, but to the federal government itself by avoiding this redundant effort.

THREE- PERCENT WITHHOLDING MANDATE – Section 5.II of the Tax Increase and Reconciliation Act of 2005 (P.L. 109-222) is a sweeping new requirement mandating that federal, state and local Governments withhold 3% from payments to design, construction and other contractors for goods and services. The law, which takes effect in 2012, will cover all payments for products and services made by the federal government, state governments, and any local government that has annual expenditures exceeding \$100,000,000. This new mandate will create yet another unfair burden on honest taxpayers, while inducing cash flow problems that will have a particularly adverse effect on companies such as C&S, whose total profit on a project frequently does not reach 3%. The law will also impose significant administrative costs and information reporting requirements on both governments and businesses. The added cost of implementing this requirement far exceeds any financial benefit to the federal government. This requirement should be repealed immediately, just as the IRS Form 1099 requirement has been.

SEC REGISTRATION OF MUNICIPAL ADVISORS – Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires “municipal advisors” to register with the Securities and Exchange Commission (SEC). The law defines municipal advisors but includes, in Section 975, an exemption from registration for “engineers providing engineering advice”. This statute does not define “engineering advice”. The SEC’s interpretation of the engineering exemption is too narrow because it fails to reflect the reality of engineering work, in which financing analysis is an integral part of the design decisions made on every project. Costing out of design alternatives, cash flow modeling, and user fee analysis are standard components of a proper engineering analysis. The SEC should not be allowed to change Congress’ intent through the development of regulations regarding the engineering exemption, which adds to our cost of doing business with little, if any, benefit to the public.

IMPROVING THE ENVIRONMENTAL REVIEW PROCESS – Requirements under the National Environmental Policy Act (NEPA), as well as various permitting processes and other review mandates, often result in excessive delays to important projects. These delays inflate costs, while doing little to mitigate environmental impacts. The National Transportation Policy and Revenue Study Commission authorized under SAFETEA LU offered a number of important recommendations to streamline these processes. The commission recommended the creation of a simplified process for projects with few significant impacts, allowing for a single environmental impact statement (opposed to the draft and final requirements of today) and requiring greater coordination among agencies such that environmental issues are considered

once - not multiple times to satisfy multiple stakeholders at significant additional time and cost. These recommendations and many others need to be adopted to allow companies such as C&S to more efficiently progress projects at reduced cost on behalf of their owners, both public and private.

IMMIGRATION REFORM – The C&S Companies employ hundreds of architects and engineers. Tied directly to our ability to be competitive are issues related to federal immigration policy. It is increasingly difficult to fill our staffing needs solely with U.S. citizens, and the attraction and retention of international talent, especially those who are highly skilled, are increasingly important. We need to significantly increase the number of skilled worker visas (H1-B and L-1). Currently, there's a cap of 65,000 on these visas, a number that falls dramatically short of the needs of the private sector nationwide. We also need to allow foreign students who study and graduate at U.S. universities to stay beyond the current one-year limit (post-graduation) that is allowed under the Student Visa Program. This issue is of particular importance to companies such as C&S here in the Upstate New York region, where we have a high concentration of colleges and universities and a significant number of international students.

Thank you for conducting this hearing, and thank you for allowing me an opportunity to share these thoughts with you.

**Committee on Oversight and Government Reform
 Witness Disclosure Requirement – “Truth in Testimony”
 Required by House Rule XI, Clause 2(g)(5)**

Name: Orrin B. MacMurray, P.E., FACEC

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

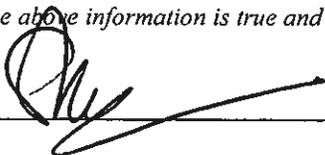
C&S Companies (C&S Engineers, Inc., C&S Design Build, Inc., C&S Technical Resources, Inc., C&S Crane and Rigging, Inc.) held by C&S World Wide Holdings, Inc. and C&S Architects, Engineers and Landscape Architects. I am Chairman of the Board of Directors.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

<u>PROJECT NAME</u>	<u>PRIME OR SUB</u>	<u>CLIENT</u>	<u>AGENCY</u>	<u>AMT</u>
HVAC Cooling Tower	Subcontractor	Eagle Veteran	Canandaigua VA	\$426,328
Medical Smoking Room	Subcontractor	Eagle Veteran	Bathe VA	\$ 67,179
Humidification System Install	Subcontractor	Eagle Veteran	Canandaigua VA	\$105,500
HVAC Replacement	Subcontractor	Welch Construction	Geneva FDA	\$304,534
Exam Rooms Renovations	Subcontractor	Welch Construction	Syracuse VA	\$ 79,607
Replace Chiller Design	Prime	VA Healthcare Network, Upstate NY	VA Healthcare Network, Upstate NY	\$107,200
Architecture & Design (R101-09-051)	Prime	Dept. of Veteran Affairs	Dept. of Veteran Affairs	\$230,413
Architecture & Design (R101-09-052)	Prime	Dept. of Veteran Affairs	Dept. of Veteran Affairs	\$279,871
Rome Sprinkler Design (VA 528-P-0726)	Prime	Dept. of Veteran Affairs Medical Center	Dept. of Veteran Affairs Medical Center	\$ 58,531

I certify that the above information is true and correct.

Signature:



Date:

18 April 2011

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<u>PROJECT NAME</u>	<u>PRIME OR SUB</u>	<u>CLIENT</u>	<u>AGENCY</u>	<u>AMT</u>
Andrews AFB Phase 2	Subcontractor	Innovative Executions, LLC.	Andrews AFB	\$ 26,810
Langley AFB Phase 1	Subcontractor	Innovative Executions, LLC.	Langley AFB	\$145,650
Asset Mgmt Supp. Services	Subcontractor	Innovative Executions, LLC.	Asset Mgmt Supp.	\$TBD/WO

Orrin B. MacMurray, P.E., FACEC
Chairman
The C&S Companies
Voting Board Member

Orrin MacMurray, P.E. graduated from Indiana Institute of Technology in 1969 with a B.S. in Civil Engineering. He joined the United States Army in late 1969, where he was commissioned as 2nd Lieutenant in the Core of Engineers, serving over three years on active duty. He joined the C&S Companies in 1972 and assumed the position of President and CEO in 1994. Currently, Mr. MacMurray is Chair of the C&S Companies Boards of Directors. Although he completed his military career of 30 years in 1998, after serving almost 27 years in the Army Reserve, he still holds the rank of Colonel Retired in the United States Army Corps of Engineers.

Mr. MacMurray is a member of the National Society of Professional Engineers and received the 1997 Engineer of the Year Award for Central New York. He is a former President of the New York Association of Consulting Engineers, Inc. (NYACE), and served as Chairman of the American Council of Engineering Companies (ACEC). ACEC represents over 5,000 independent engineering companies throughout the United States through its headquarters in Washington and is a national federation of 52 state and regional organizations.

MacMurray serves as a board member of many organizations, including the Manufacturers Association of Central New York (MACNY), Center States CEO and the Syracuse Center of Excellence for Environmental and Energy Systems at Syracuse University. He also serves as President of the Longhouse Council, Inc., of the Boy Scouts of America and Vice President of the Health Advancement Collaborative of Central New York.

In his spare time he enjoys woodworking in his shop at home and camping with his wife, Karen.