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OGIS  
OFFICE OF GOVERNMENT  
INFORMATION SERVICES

OFFICE OF GOVERNMENT INFORMATION SERVICES

2019



The Freedom of Information Act Ombudsman—

# Past, Present & Future

2019 REPORT FOR FISCAL YEAR 2018



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*Cover image: National Archives architectural detail.  
NARA photo by Brogan Jackson.*



# Message from the **DIRECTOR**

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I am pleased to present the 2019 [Office of Government Information Services](#) (OGIS) Annual Report to Congress and the President of the United States. This report, which covers Fiscal Year (FY) 2018, is OGIS's primary opportunity to share our observations about the implementation of the [Freedom of Information Act](#) (FOIA) across the government, propose legislative recommendations, and describe our ongoing efforts to build a better FOIA process.

This year, we are not only reporting on OGIS's progress, but also celebrating our 10-year anniversary as the FOIA Ombudsman. Since opening our doors in September 2009, OGIS has gone from being a little-known alternative to FOIA litigation to an integral part of the FOIA landscape as we provide dispute resolution services, improve compliance with the statute, and more. While our work has expanded, our vision remains the same—a FOIA process that works for all stakeholders.

As we celebrate our tenth year, we are reflecting on our past, celebrating our accomplishments, and looking towards the future. We are extremely proud of the programs and processes we have put in place over the last 10 years, from our mediation and compliance programs to our dispute resolution training, our outreach efforts to both requesters and agencies, and our leadership and support of the [FOIA Advisory Committee](#). However, we recognize that these programs create a foundation for what is to come for our office, and, as we mark this anniversary, our eyes are firmly fixed on our goals for the future.

I would like to once again express my gratitude for the support and leadership of Archivist of the United States David S. Ferriero, Deputy Archivist Debra Steidel Wall, Chief Operating Officer William J. Bosanko, Executive for Agency Services Jay Trainer, and General Counsel (and Chief FOIA Officer) Gary M. Stern. With their support, OGIS’s mission has remained most closely aligned with two of the four [strategic goals of the National Archives and Records Administration](#) (NARA)—making access happen and connecting with our customers. A special thank you goes to all of the agency Chief FOIA Officers, FOIA Officers, FOIA Public Liaisons, and FOIA personnel who have worked with us over the years to help us understand the FOIA process at their respective agencies.

Sincerely,

A handwritten signature in black ink, appearing to read "Alina M. Semo". The signature is fluid and cursive, with a long horizontal stroke at the end.

Alina M. Semo, Director

Office of Government Information Services<sup>1</sup>

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<sup>1</sup> The views expressed in this report are those of the OGIS Director and do not necessarily represent the views of the President. See 5 U.S.C. § 552(h)(4)(C).



# Executive Summary

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This year, the [Office of Government Information Services](#) (OGIS) celebrates 10 years as the Freedom of Information Act (FOIA) Ombudsman. In that time, we have grown from a little-known alternative to FOIA litigation to an essential part of the FOIA process. Our work presents, as it has from the day we opened in September 2009, an alternative to the historical solution of litigation to resolve FOIA disputes. Today, we are fully woven into the FOIA process as an advocate for a fair process for requesters and agencies.

Since we opened our doors in 2009, OGIS has responded to more than 15,000 requests for assistance. Fiscal Year (FY) 2018 was our busiest yet. We closed 4,681 requests for assistance—from FOIA requesters and agencies alike—an 11 percent increase from FY 2017. In FY 2018, which marked the fourth year of our compliance program, we published five assessments—two of agency FOIA programs; two resulting from FOIA questions asked in the government-wide Records Management Self-Assessment; and one FOIA issue assessment.

The second two-year term of the [FOIA Advisory Committee](#) ended in FY 2018 with [seven recommendations](#) to the Archivist of the United States, one of which resulted in the OGIS legislative recommendation made in this report—that Congress pass legislation to provide agencies with sufficient resources to comply with the requirements of both the FOIA and Section 508 of the Rehabilitation Act, as amended, particularly with regard to proactive posting of large numbers of records.

FY 2018 also saw the inaugural meeting of the [2018-2020 term](#) of the FOIA Advisory Committee, whose members are FOIA experts from inside and outside of government who are appointed by the Archivist. The Committee established three areas of focus for its two-year term that resulted in the following subcommittees: Records Management, Time/Volume, and Vision of FOIA.

Finally, FY 2018 saw the release of our first [advisory opinion](#) (on agency communication with requesters) and our first [FOIA Ombuds Observer](#) (on navigating FOIA to access immigration records).

# The FOIA Ombudsman at Work: **Reflecting** On Our **Past**

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When President Lyndon Baines Johnson signed the Freedom of Information Act (FOIA) into law in 1966, the normally gregarious bill signer did not hold a White House signing ceremony. Instead, he quietly signed the legislation at his Texas ranch on July 4, 1966. President Johnson's signing [statement](#) spoke to some of the tensions inherent in the law, noting that “a democracy works best when the people have all of the information that the security of the Nation permits,” and “[n]o one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest.” The statement recognized the public's right to know balanced against



*Lady Bird Johnson and President Lyndon Baines Johnson at the LBJ Ranch in Texas where the president signed the Freedom of Information Act into law in 1966.  
(NARA Identifier 6802689)*

the government's need to protect personal privacy interests and keep peace by protecting military secrets. It also recognized the need for those within the government to communicate "fully and frankly without publicity" and the importance of confidentiality in government decision-making.

While FOIA revolutionized government openness, it also created conflict. Until Congress amended the law four decades later to introduce dispute resolution as an alternative to litigation, FOIA requesters had only one formal path for attempting to resolve disagreements beyond the agency's administrative process: file a lawsuit. As a result, the courts have played an important and ongoing role in interpreting the statute and shaping how agencies implement the law.

Since its passage, Congress has amended the FOIA about once every 10 years. These amendments have generally addressed particular problems with how the law was being implemented, and have modernized a law written in a paper era in a world where information is born digitally and can be shared with millions of people via the Internet in less than a second.

The passage of the Openness Promotes Effectiveness in our National (OPEN) Government Act of 2007 introduced dispute resolution to the FOIA process by creating the [Office of Government Information Services](#) (OGIS) and codifying the role of the FOIA Public Liaison (FPL). Our work—and that of hundreds of FPLs across the government—presents a contrast to the adversarial process of litigation.

OGIS opened its doors in September 2009 with the following guiding principles:

- Advocate for a fair FOIA process and for improving FOIA;
- Complement agency practice without making the process more burdensome;
- Serve as a resource for requesters to help them navigate the FOIA landscape and for agencies to help improve their FOIA practices; and
- Recognize that FPLs are essential to improving FOIA administration and OGIS must support them and promote their role.

Over the last 10 years, we at OGIS have focused our efforts on developing our program as contemplated by the FOIA statute. We began by establishing our dispute resolution program as a non-exclusive alternative to litigation. As our caseload grew and agencies increasingly turned to OGIS for dispute resolution assistance, we established our innovative compliance assessment program; and our outreach and training program has strengthened and grown.

While the OPEN Government Act of 2007 created OGIS, the [FOIA Improvement Act of 2016](#) firmly wove dispute resolution into the fabric of the FOIA process, creating multiple opportunities for requesters to seek assistance from both agency FOIA professionals and OGIS. These changes have also led to a significant culture shift for agencies and the FOIA process.

While many FOIA disputes have been resolved either through communication between the agency and the requester, or through OGIS's services, courts continue to play a critical role in the FOIA process. OGIS provides a non-exclusive alternative to litigation that allows the parties to come to a mutual agreement or reduces the number and scope of issues in dispute. Since we opened our doors in 2009, OGIS has responded to more than 15,000 requests for assistance.



*The FOIA Improvement Act of 2016 firmly wove dispute resolution into the FOIA process.  
NARA Identifier 409683]*

# The FOIA Ombudsman at Work: **Considering the Present**

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## Dispute Resolution

The vast majority of OGIS customers are individual requesters who need help navigating an increasingly complex FOIA administrative process. We are available to help anyone who seeks our assistance—including advocates for a range of public policy issues, FOIA professionals, historians, journalists, prisoners, researchers, students and veterans. Often the people who contact us do not understand the FOIA process or the myriad options they face. We have observed, too, that even experienced requesters and FOIA processors face challenges in navigating the process.



*OGIS's dispute resolution program centers on possibility not on the past as illustrated by detail from this 1918 Department of Labor poster. (NARA Identifier 541774)*

Requesters now have more options than ever before: they may contact OGIS, or the FOIA Public Liaison, before they file an initial request, after the agency has issued an initial response, or after they file an appeal, or any combination thereof. The options bring with them confusion and challenges, but also an opportunity for OGIS to fulfill our mission to resolve FOIA disputes, identify methods to improve compliance with the statute, and to educate our stakeholders about the FOIA process.

We closed 4,681 requests for assistance in FY 2018, about 11 percent more than the 4,199 cases we completed in FY 2017. We ended FY 2018 with 308 requests for assistance that had been pending for more than 90 days. That is more than double the 149 requests that had been pending more than 90 days at the end of FY 2017. We continue to explore ways to meet the demand of our growing caseload and have added several efficiencies to the OGIS mediation process to help address the demand for our services.

## **Compliance**

We fulfilled OGIS's mandate to review FOIA policies, procedures, and compliance, and identify methods for improving FOIA compliance during FY 2018 by:

- Completing and publishing two agency compliance assessments: [U.S. Citizenship and Immigration Services \(USCIS\)](#) (February 9, 2018) and [U.S. Postal Service \(USPS\)](#) (August 22, 2018);
- Completing and publishing one issue assessment: [Agency Compliance with Required Dispute Resolution Notices](#) (July 18, 2018);
- Continuing our participation in [NARA's Records Management Self-Assessment](#) (RMSA) (July 25, 2018);
- Launching an agency compliance assessment for the U.S. Department of Education (expected publication date: early 2019);
- Reviewing updated FOIA regulations from 14 departments and agencies; and
- Working with individual agencies on specific compliance issues that arose in the course of providing dispute resolution services.



*President George W. Bush celebrates with newly naturalized U.S. citizens. U.S. Citizenship and Immigration Services, which administers the immigration and naturalization system, runs the government's largest FOIA program. OGIS completed a review of the program in FY 2018. (NARA Identifier 7369336)*

In FY 2018, which marked the fourth year of our compliance program, we published an assessment of two agencies with widely differing FOIA programs and challenges—USCIS and USPS. USCIS regularly receives and processes the largest volume of FOIA requests government-wide. In FY 2017, USCIS received an average of 732 requests and responded to an average of 727 requests each work day.

In contrast, the highly decentralized USPS received 1,909 FOIA requests in FY 2017 from requesters seeking records that could be located at approximately 30,000 field offices—mostly post offices and mail processing centers throughout the country, including in U.S. territories.

Our assessments of the government's highest-volume FOIA program and a highly decentralized program that spans the nation's map illustrate well that there is no one-size-fits-all approach to administering FOIA. Our recognition that no two agencies have the same records nor the same process for handling FOIA requests allows us to individually tailor recommendations for improvement. These recommendations center on management, technology, and communication with requesters.

For the second consecutive year, we connected with virtually every agency subject to FOIA through a partnership with our NARA colleagues at the [Office of the Chief Records Officer for the U.S. Government](#) who administer the [Records Management Self-Assessment](#) (RMSA). Federal agencies are required to conduct the self-assessment and submit their findings to NARA. The goal is to determine whether Federal agencies comply with statutory and regulatory records management requirements. The 2017 assessment, conducted in the first few months of calendar year 2018, included several questions pertaining to FOIA.

The RMSA is a valuable tool that helps OGIS expand review of agency FOIA policies and procedures, identify potential compliance issues that merit further exploration, and set OGIS's goals and priorities. The self-assessment survey process also encourages coordination and collaboration between FOIA Officers and Agency Records Officers, a crucial relationship as the government transitions to [fully electronic record keeping](#) by December 31, 2022, after which time NARA will accept records only in electronic format.

### **FOIA Advisory Committee**

First chartered by NARA in 2014, the [FOIA Advisory Committee](#) (Committee) serves as a deliberative body to foster dialogue between the Federal government and the requester community, solicit public comments, and develop recommendations for improving FOIA administration and proactive disclosures. The Committee's final report advises the Archivist of the United States (the Archivist) on improvements to the administration of FOIA in the form of recommended legislative action, policy changes, or executive action. Committee members, who are appointed by the Archivist, represent a wide variety of stakeholders with experience in the administration of FOIA—both inside and outside of government.

The FOIA Advisory Committee's second term culminated in an April 17, 2018 [Final Report and Recommendations](#) to the Archivist. The Final Report advances seven recommendations to the Archivist for actions to improve FOIA, and includes 43 best practices. The recommended improvements focus on the areas of search technology, accessibility, and performance standards.

FOIA Advisory Committee Recommendations to Archivist	Status
<b><i>Search Technology</i></b>	
<p>1. "Propose that the <a href="#">Chief FOIA Officers [CFO] Council</a> seek to establish a technology subcommittee, in partnership with the <a href="#">CIO Council</a>, to study the utilization and deployment of FOIA technology across agencies and identify best practices and recommendations that can be implemented across agencies." [2018 Final Report].</p>	<p>CFO Council established the CFO Technology Subcommittee at the end of FY 2018; members hail from five Cabinet-level agencies and six independent agencies. The Subcommittee is expected to meet throughout FY 2019.</p>
<p>2. "Request that OIP collect detailed information, as part of each agency's CFO Report, regarding the specific methods and technologies agencies are using to search their electronic records, including email. Potential topics to be covered include agencies' procurement of technology, ability to search email, acquisition of e-discovery tools, and availability of information on agencies' websites that helps requesters understand the agencies' record keeping systems and be better able to submit targeted requests." [2018 Final Report]</p>	<p><b><i>Complete</i></b>—OIP included the following question in its guidelines for the 2019 CFO Report:</p> <p><i>"Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead."</i></p> <p>OGIS expects that answers will contribute to a deeper understanding of the challenges agencies face when searching for records responsive to FOIA requests, and help identify efficient search methods.</p>

FOIA Advisory Committee Recommendations to Archivist	Status
<p>3. “Suggest a modification to the <a href="#">Federal Acquisition Regulation</a> (FAR) to require all agencies, when acquiring electronic records management software, electronic mail software, and other records-related information technology, to consider features that will help facilitate the agencies’ responsibilities under FOIA to provide access to federal agency records.” [2018 Final Report]</p>	<p>OGIS is working with NARA’s representative to the Federal Acquisition Regulatory Council and NARA’s General Counsel staff to draft a business case for including FOIA requirements in the FAR to be presented to the FAR Council.</p>
<p><b><i>FOIA and Accessibility</i></b></p>	
<p>4. “Launch an interagency effort to develop standard requirements for FOIA processing tools, to ensure that both the tools and their outputs are Section 508-compliant.” [2018 Final Report]</p>	<p>OGIS anticipates that the work of the Technology Subcommittee of the CFO Council as well as our work on another recommendation writing a business case for including FOIA requirements in the Federal Acquisition Regulation (FAR) will cover some of the goals of this recommendation. In addition, OGIS will continue to work with the current FOIA Advisory Committee for additional input on how to proceed.</p>
<p>5. “Request that OGIS conduct an assessment of the methods undertaken by agencies to prepare documents for posting on agency FOIA reading rooms.” [2018 Final Report]</p>	<p>OGIS’s Compliance Team anticipates launching the assessment late in FY 2019.</p>

FOIA Advisory Committee Recommendations to Archivist	Status
<p>6. “Encourage OGIS to highlight the issues with proactive disclosure and Section 508 compliance in its report to Congress by recommending that legislation be enacted to clarify agency requirements under the Rehabilitation Act, especially as they relate to proactive posting of large numbers of records.” [2018 Final Report]</p>	<p><i>Complete</i>—See pages 15–17 in this report.</p>
<p><b>FOIA Performance Standards</b></p>	
<p>7. “Direct OGIS to examine the use of appropriate performance standards in federal employee appraisal records and work plans to ensure compliance with the requirements of FOIA. The Committee further recommends that OGIS submit the results of its assessment and any recommendations to Congress and the President in accordance with 5 U.S.C. § 552 (h)(5).” [2018 Final Report]</p>	<p>OGIS’s Compliance Team anticipates launching this assessment in FY 2020.</p>
<p><b>FOIA Fees (from 2014–2016 term)</b></p>	
<p>8. Recommend that the Archivist recommend to the Office of Management and Budget (OMB) that it update its 1987 OMB Guidelines for FOIA Fees. [2016 Final Report]</p>	<p><i>Complete</i>—The Archivist sent a <a href="#">letter</a> to OMB dated August 26, 2016. OGIS continues to monitor progress and assist where possible to ensure completion.</p>

In addition to the recommendations above, the FOIA Advisory Committee also recommended that the Archivist publish and promote 43 best practices for agencies to implement in the interest of improving FOIA compliance and administration. The best practices, published in the [Final Report and Recommendations](#), focus on several areas, including addressing FOIA and accessibility; managing the FOIA process; bringing in talent; using technology to improve the process; identifying categories of records for proactive disclosure; and posting detailed FOIA request logs. OGIS will continue to promote these practices throughout FY 2019 in various formats and venues.

### **OGIS Recommendation to Congress**

OGIS's enabling statute authorizes it to submit "[l]egislative and regulatory recommendations, if any, to improve the administration of FOIA." 5 U.S.C. 552(h)(4)(A)(iii).

This FY 2018 report makes one specific recommendation to Congress:

*OGIS recommends that Congress pass legislation to provide agencies with sufficient resources to comply with the requirements of both FOIA and Section 508 of the Rehabilitation Act of 1973, as amended, especially as they relate to proactive posting of large numbers of records.*

**Background.** The FOIA Improvement Act of 2016 amended FOIA to require that agencies proactively release certain records, including any record that has been requested three or more times. 5 U.S.C. § 552 (a)(2)(D)(ii)(II). Section 508 of the Rehabilitation Act requires, among other things, that all records posted to agency websites be accessible to people with disabilities, unless doing so would pose an "undue burden" on the agency. 29 U.S.C. § 794d(a)(1)(A). In order for a document to be accessible, it must meet specific requirements. These requirements include that the text be machine-readable and that any charts,

graphs, pictures, or tables in the document are tagged and described in a way that enables the screen reader to accurately describe a document to a visually-impaired individual.

The procedures and tools often used by agencies to process records for public release under FOIA strip away metadata and other features that make those records accessible and Section 508-compliant. Agencies often lack the resources to remediate these records

to meet Section 508 requirements. This conflict between current FOIA processing technology and Section 508 compliance prevents many agencies from proactively disclosing large numbers of records.

Some agencies are able to rely on their IT staff to ensure 508 compliance; other agencies leave that function in the hands of FOIA professionals, who are already busy trying to review and release records responsive to other requests; and some agencies contract out these services. Currently, we know of no software solutions which can fully automate the process of making records 508-compliant.

**FOIA Advisory Committee Recommendation.** Both the first and second terms of the FOIA Advisory Committee identified the potential conflict between proactive disclosure and Section 508 compliance as a major technological challenge for agencies that needs to be addressed. During the Commit-



*OGIS is making one recommendation to Congress regarding helping agencies fulfill requirements of both FOIA and Section 508 of the Rehabilitation Act. The National Archives and the Capitol, above, in 1936. (NARA Identifier 7820630)*

tee's first term (2014–2016), a subcommittee studied the issue. The second term (2016–2018) produced this specific recommendation to the Archivist—that legislation is needed to clarify agencies' Section 508 requirements, especially as they relate to proactive posting of large numbers of records, by ensuring “that agencies have sufficient resources to meet both accessibility and proactive disclosure requirements.”<sup>2</sup>

**Possible Legislative Options.** Below are three possible legislative options, not mutually exclusive, that may be pursued:

1. Pass legislation that specifically tasks and funds the [U.S. Digital Service](#) within the Executive Office of the President and/or [18F](#), the digital services office within the General Services Administration, to assemble and lead a team of individuals with requisite disciplines and knowledge to develop tools that will assist agencies to make their records Section 508 compliant and accessible. This could include, but not be limited to, writing a new source code that may be made available to agencies through [www.code.gov](http://www.code.gov).
2. Pass legislation funding and tasking a suitable Federal entity or organization—such as the [National Institute on Disability, Independent Living, and Rehabilitation Research](#) (NIDILRR) within the U.S. Department of Health and Human Services (HHS)—with administering a grant program aimed at developing technologies or tools for public use that would automate the process of making agency documents 508-compliant.
3. Pass legislation providing that, in lieu of proactively posting 508-compliant FOIA documents, agencies may instead post a 508-compliant index of these documents. Individuals could then request 508-compliant copies of documents listed in the index.

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<sup>2</sup> Page 8, 2016–2018 FOIA Advisory Committee Report and Recommendations, <https://www.archives.gov/files/final-report-and-recommendations-of-2016-2018-foia-advisory-committee.pdf>.

## **OGIS Advisory Opinions & FOIA *Ombuds Observer***

FOIA provides OGIS with the authority to issue [advisory opinions](#) at its own discretion following the completion of mediation services, which will provide guidance for similar disputes going forward. 5 U.S.C. § 552(h)(3).

Prior to the passage of the FOIA Improvement Act of 2016, OGIS could issue advisory opinions for individual disputes, if mediation had not resolved the dispute. For several years OGIS struggled with how to reconcile its authority to issue advisory opinions with its ability to be an impartial party that facilitates the resolution of disputes between requesters and agencies. We are grateful that Congress recognized this tension and, with the FOIA Improvement Act, gave OGIS the power to issue advisory opinions at its discretion. OGIS intends to use this now-modified advisory opinion authority to issue opinions that address the most common disputes, complaints, and trends that we uncover through our dispute resolution practice that are mostly likely to lead to litigation. We issued our first Advisory Opinion on July 18, 2018. We plan to build a body of advisory opinions, available online for both requesters and agencies to consult, that will help head off disputes before they fester or lead to litigation.

General education about the FOIA is also a critical component of our work as the FOIA Ombudsman. We were particularly excited to publish the [first issue of the FOIA \*Ombuds Observer\*](#) on August 29, 2018. We envision that the *FOIA Ombuds Observer* will serve as a vehicle to educate requesters about various facets of the FOIA. The first *Observer* was issued as a companion to our August 2018 [Immigration Forum](#) and is designed to provide more detailed information regarding how to gain access to immigration-related records from such agencies as USCIS, Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), the Department of State, and HHS. The *Observer* will address a variety of FOIA-focused topics based on questions we receive frequently and repeatedly from our customers.

## **Other Outreach**

Our work also includes outreach, which we did in FY 2018 by hosting a statutorily mandated annual open meeting and co-hosting with the Office of Information Policy at the Department of Justice two meetings of the CFO Council. We hosted the annual [Sunshine Week at the National Archives](#) celebration and were honored to have [Senator Patrick Leahy](#) of Vermont deliver the keynote address. In August 2018, OGIS organized, hosted, and moderated a [forum on immigration records](#), which provided a platform for several Federal agencies that deal with FOIA requests for immigration records to explain their processes, answer questions, and clarify what can be a confusing process for many requesters.

OGIS Director Semo presented to a global audience at the [International Day for Universal Access to Information](#), sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), in Bogotá, Columbia; and at the annual conference of the Council on Governmental Ethics in Toronto, Canada. Closer to home, OGIS presented at events sponsored by the [Charles Widger School of Law at Villanova University](#); [Investigative Reporters and Editors](#); [American Society of Access Professionals](#); and the [Council of the Inspectors General on Integrity and Efficiency](#).

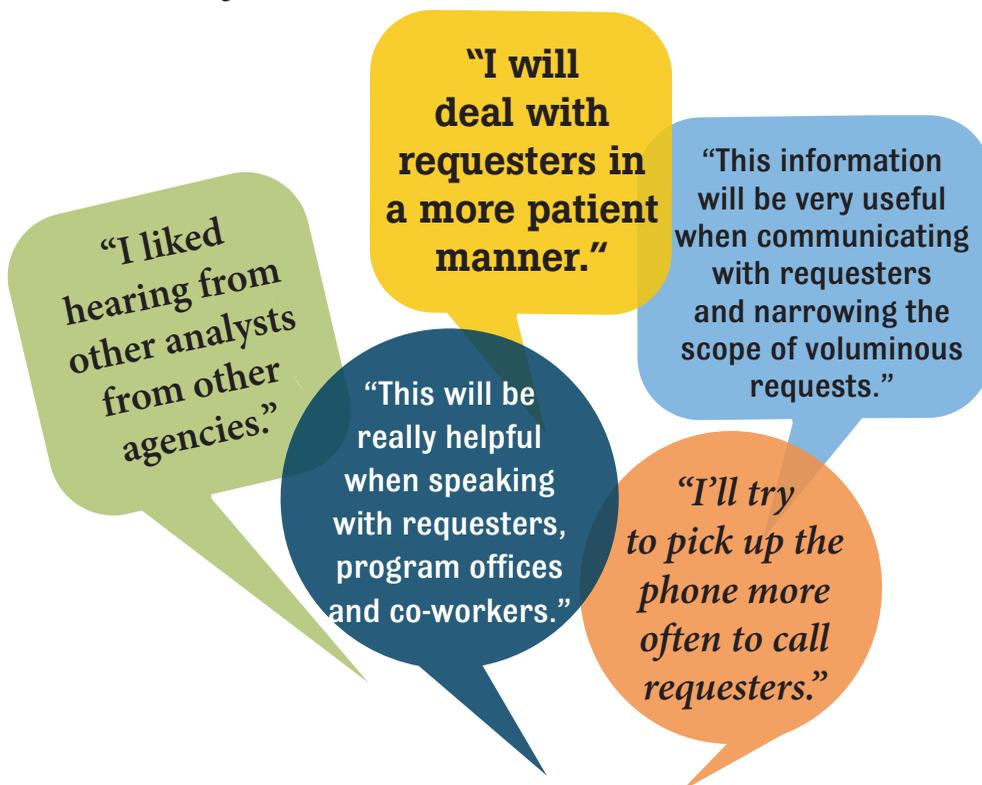
## **Training**

Since its introduction in 2010, OGIS's Dispute Resolution Skills for FOIA Professionals training program has provided vital support to agency FOIA professionals tasked by the statute to resolve and prevent disputes. The day-long program has been very popular, and our twice-yearly sessions fill up within 24 hours of their announcement. FY 2018's training sessions continued to be equally popular. OGIS held two interagency training sessions—one in November 2017 and one in May 2018—which included FOIA professionals from more than 15 departments and agencies. These interagency sessions remain an extremely valuable opportunity for FOIA professionals to learn from their colleagues from other agencies.

In FY 2018, we saw an increase in demand for agency-specific training for the second consecutive year. We presented tailored, in-depth training on communications, customer service, and dispute resolution to the Centers for Disease Control and Prevention, the National Oceanic and Atmospheric Administration, the Department of Homeland Security, the Social Security Administration, and the Department of the Interior.

This increase in requests for agency-specific training is significant because it represents a shift in how agencies think about customer service and dispute resolution. No longer is dispute resolution seen as the exclusive responsibility of the FOIA Public Liaison, who spends a day away from their office to attend OGIS's training. Instead, by providing dispute resolution training for the entire FOIA staff, agencies show their commitment to improving customer service and practicing good communications skills throughout the FOIA process.

Training participants heaped praise upon the program in FY 2018; according to our post-training feedback forms, participants recorded an average satisfaction rating of 4.8 out of 5.0. FY 2018 training participants offered the following feedback:





# The FOIA Ombudsman at Work: **Envisioning** the Future

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A central tenet of mediation is that, while it is important to acknowledge the past, parties should place more emphasis on a vision for the future. We are proud of the work we have accomplished since opening our doors in 2009; we are also excited about the challenges that lie ahead. The future for OGIS looks bright. Not only will we continue all of the great work that we have been doing, we will explore new avenues for improving the FOIA process. We will continue to engage in our dispute resolution, compliance, training and outreach efforts. We will issue additional advisory opinions and other educational tools, including the *FOIA Ombuds Observer*. We will work closely with the FOIA Advisory Committee and its recently-formed three subcommittees: Records Management, Time/Volume, and Vision. We are particularly pleased that the Committee is working on a strategic plan to achieve a shared vision of FOIA for the future. All of OGIS's efforts are designed to improve the FOIA process for all—agency and requester.

In our early years, OGIS often explained that “we were figuring out how to do our work while doing our work.” We have since learned that the different parts of our work—such as our mediation and compliance programs—are complementary, integrated and essential, and that the success of each depends on the other. As we look ahead to the next 10 years, we do so with the knowledge that OGIS as the Federal FOIA Ombudsman plays an essential role in the FOIA process.

# Appendix

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Departments and agencies that engaged in dispute resolution with OGIS by number of OGIS cases in Fiscal Year (FY) 2018 & the number of times requesters sought assistance from each FOIA Public Liaison in FY 2018:

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Department of Justice	1254	63,000
Department of Homeland Security	726	5,927
Social Security Administration	322	2,400
Department of Defense	302	2,200
Department of Health and Human Services	253	1,500–2,000
Department of Veterans Affairs	141	10
Equal Employment Opportunity Commission	103	331
Department of Labor	95	270

OGIS's enabling statute requires it to report "the number of times each agency engaged in dispute resolution with the assistance of [OGIS] or the FOIA Public Liaison." 5 U.S.C. 552(h) (4)(A)(ii)(II). The total number of OGIS cases does not equal the number of cases OGIS closed in FY 2018 because some cases involve multiple agencies or requests and in other cases, the name of the agency is not relevant to the issue.

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Central Intelligence Agency	76	0
Department of the Treasury	69	2,200
Department of State	61	1,605
U.S. Postal Service	60	1 per week collectively among FPLs
Department of the Interior	53	56
Department of Transportation	47	225
National Archives and Records Administration	47	57
Office of Personnel Management	36	1,250
Environmental Protection Agency	34	100
Department of Education	30	48
Department of Agriculture	28	100
Securities and Exchange Commission	24	10
Pension Benefit Guaranty Corporation	22	17
Department of Commerce	21	78
Department of Housing and Urban Development	21	25
Department of Energy	14	29
Federal Trade Commission	9	25

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Consumer Financial Protection Bureau	8	150
Federal Energy Regulatory Commission	8	60
National Transportation Safety Board	7	0
Small Business Administration	6	150
Office of Special Counsel	5	20
Federal Housing Finance Agency	4	< 20
General Services Administration	4	150
Merit Systems Protection Board	4	0
National Labor Relations Board	4	110
National Railroad Passenger Corp. (Amtrak)	3	0
Exec. Office of the President: Office of Science and Technology Policy	3	0
National Aeronautics and Space Administration	3	8
U.S. Agency for International Development	3	< 5
Exec. Office of the President: Office of Management and Budget	2	0

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Exec. Office of the President: Office of the U.S. Trade Representative	2	25
Export-Import Bank	2	8
Federal Communications Commission	2	14
Federal Deposit Insurance Corporation	2	19
Federal Retirement Thrift Investment Board	2	N/A
Office of the Director of National Intelligence	2	2
Privacy and Civil Liberties Oversight Board	2	N/A
U.S. Consumer Product Safety Commission	2	70
Broadcasting Board of Governors	1	0
Commodity Futures Trading Commission	1	10
Federal Mediation and Conciliation Service	1	1
Millennium Challenge Corporation	1	N/A
National Endowment for the Humanities	1	N/A
Nuclear Regulatory Commission	1	3 to 5
Peace Corps	1	0

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Board of Governors of the Federal Reserve System	0	55
Council of the Inspectors General on Integrity and Efficiency (CIGIE)	0	**
Court Services and Offender Supervision Agency	0	5 to 10 times per month
Exec. Office of the President: Council on Environmental Quality	0	400
Exec. Office of the President: Office of National Drug Control Policy	0	1
Federal Election Commission	0	6
Federal Labor Relations Authority	0	0
Federal Mine Safety and Health Review Commission	0	0
National Endowment for the Arts	0	1
National Science Foundation	0	0
Occupational Safety and Health Review Commission	0	0
Office of Government Ethics	0	24 to 36

Department/Agency	No. of OGIS cases	No. of times requesters sought assistance from FOIA Public Liaison (FPL)*
Overseas Private Investment Corporation	0	0
Railroad Retirement Board	0	1
Surface Transportation Board	0	0
Tennessee Valley Authority	0	1

\* From 2018 Chief FOIA Officer Reports available here: <https://www.justice.gov/oip/Chief-foia-officer-reports-2018>. N/A means that the agency processed 50 or fewer requests in FY 2017 and was not asked to report on requesters seeking assistance from the FOIA Public Liaison.

\*\* CIGIE has an agreement for its FOIA requests to be processed by the U.S. Department of Justice Office of Inspector General.



*[www.archives.gov/ogis](http://www.archives.gov/ogis)*