



## OGIS: Fiscal Year 2011 Mid-Year Review

The OPEN Government Act of 2007 amended the Freedom of Information Act (5 U.S.C. § 552) to create an Office of Government Information Services (OGIS) within NARA. The new office opened in early September 2009, with one staff member (the Director); 5 staff members were in place by December 2009 and a full staff of 7 was in place by May 2010.

OGIS reviews policies and procedures of administrative agencies under FOIA, reviews agency compliance with FOIA, and recommends policy changes to the Congress and the President to improve the administration of FOIA. OGIS also provides services to mediate disputes between FOIA requesters and Federal agencies – an innovative approach to reduce litigation and to improve the FOIA process for the public and the government. OGIS also serves – in the words of Congress – as the nation’s FOIA Ombudsman to facilitate communications between government agencies and the public. OGIS advocates for FOIA itself, not for requesters over agencies, or vice-versa.

### OGIS Objectives for FY 2011:

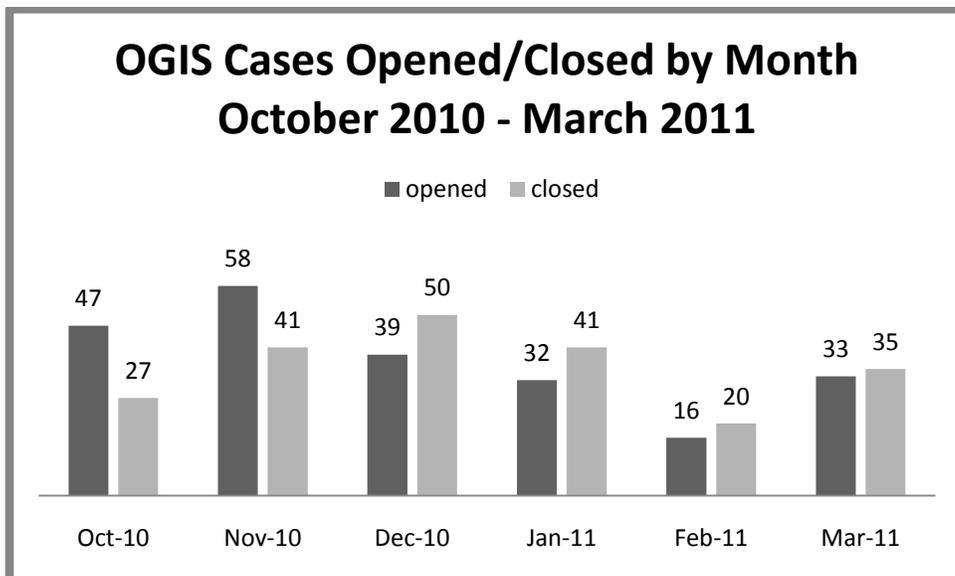
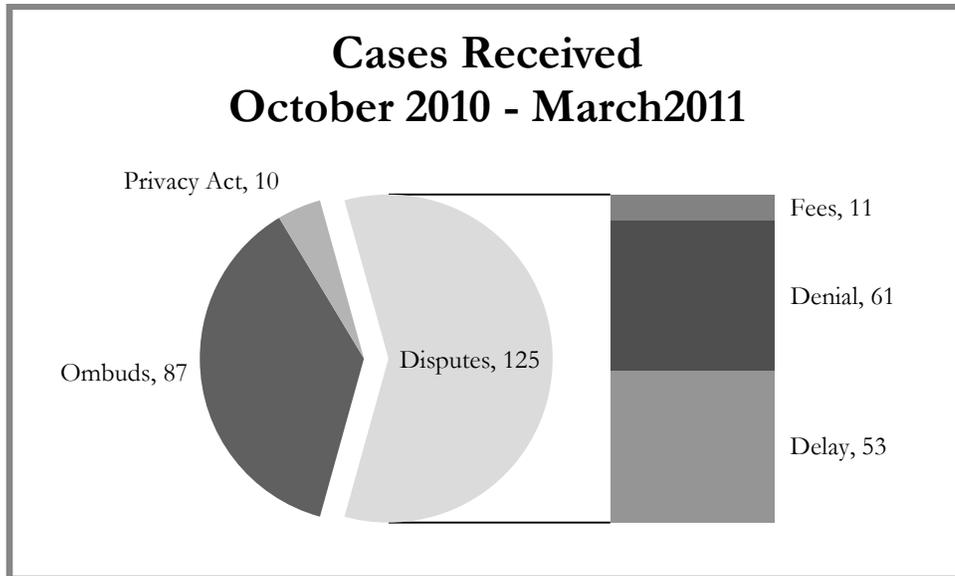
1. Issues report and makes recommendations to Congress and to the President. Report on OGIS’s First Year issued March 2011.
2. Designs and implements a formal mediation program to expand mediation services that are currently provided.
3. Establishes strategy for systematic review of agency policies and practices to ensure consistent government-wide and individual agency compliance with FOIA.
4. Launches case management system and web site (OGIS Access System).
5. Implements policy and procedures for issuing advisory opinions in cases in which mediation has not resolved disputes.
6. Provides dispute resolution skills training to FOIA professionals every two months. Note: training provided in October 2010, and March 2011; training scheduled for April, June, August and October 2011.
7. Issues OGIS regulation.

### OGIS Accomplishments:

In the first two quarters of FY 2011, the OGIS caseload – which includes requests for dispute resolution for specific FOIA requests as well as more general inquiries – continued at a steady pace. In the second quarter, however, OGIS received only 3 cases involving the Privacy Act, or first-party requests, which fall outside the scope of the OGIS mission. Previously, in any given quarter, Privacy Act requests comprised approximately 25% of OGIS’s new cases.

- ✓ At the midpoint of FY 2011, OGIS had received 225 requests for assistance and closed 214 cases. Of the 225 cases opened, the types of issues raised were mainly denial of access (61), delay in response (53), and ombuds matters (87). The remaining requests were distributed between issues with fees, Privacy Act requests or other.

- ✓ As of March 31, 2011, in total OGIS had received 631 cases and closed 563.
- ✓ OGIS has handled several hundred phone calls and emails that did not require opening a case. (Note: None of the cases OGIS handled resulted in formal mediation.)
- ✓ OGIS has handled cases from customers in 45 states, the District of Columbia, Puerto Rico, and 12 foreign countries.



- ✓ OGIS collaborated again with the alternative dispute resolution (ADR) specialist from the Air Force to provide dispute resolution skills training to Federal FOIA professionals and the public at the National Training Conference of the American Society of Access Professionals.
- ✓ OGIS continued to facilitate discussions among and between Federal agencies with regard to several multi-agency database requests (one of which went to more than 40 agencies and another to more than 60 agencies).
- ✓ OGIS began working collaboratively with the Department of Interior (DOI) to review its FOIA regulations in order to make suggestions for proposed revisions to improve the administration of FOIA within DOI, to ensure that FOIA is a vital part of DOI's Open Government plans, and to launch a pilot program to provide cross-training to DOI's ADR and FOIA personnel.
- ✓ OGIS also collaborated with the new Consumer Financial Protection Bureau in reviewing its proposed FOIA regulations and providing comments. OGIS also submitted public comments to proposed FOIA regulations issued by the Departments of Justice and Transportation.

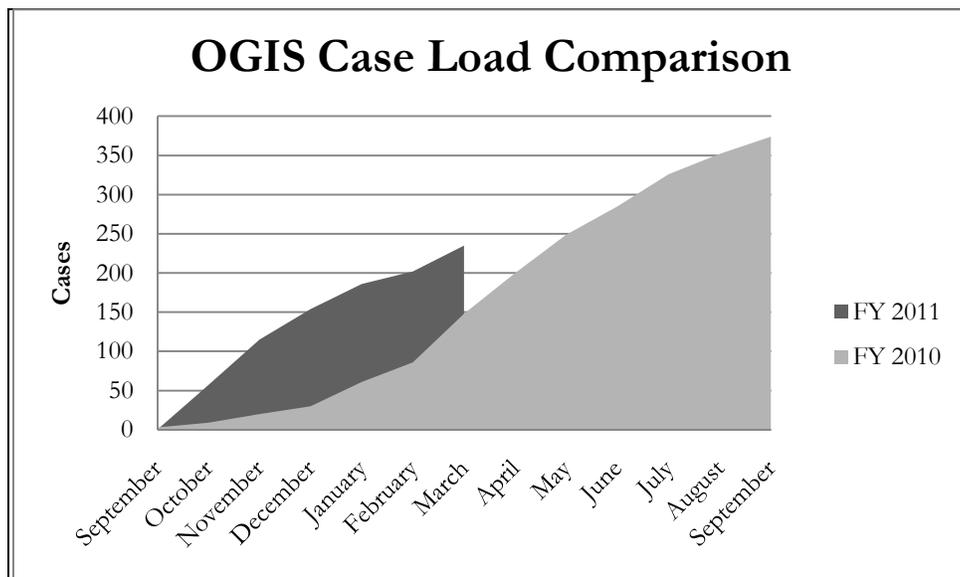
During the second quarter, the OGIS staff engaged in a self-evaluative process as a way of setting a course for growth. As a result of this process, OGIS has identified a plan for creating guidance pieces on selected topics by providing this guidance through a training course(s) and/or a "white paper." For example, OGIS is facilitating disputes in several cases involving access to government databases. As a result of these experiences, with input from our customers and agency FOIA personnel, OGIS is developing a strategy for how best to process this type of FOIA request. The strategy will include how to implement a team approach to processing database requests, best practices in working with technology-savvy requesters, and general information pertaining to databases and metadata (two topics where we have observed a knowledge gap). We view this plan as a foundation for establishing OGIS as a resource for practical information that will improve the FOIA process for requesters and for agencies.

OGIS has finished most of its work on designing its case management system and Web site, which is scheduled to launch in the summer. OGIS drafted its regulation for executive branch review. OGIS staff members have given numerous presentations on the OGIS mission and how we provide mediation services. For example, OGIS presented at the American Society of Access Professionals' National Training Conference and at American University's Washington College of Law's FOI Day Celebration during Sunshine Week (March 14-18, 2011). OGIS published its [report](#) on its first year. The OGIS Director testified before both the Senate Judiciary Committee and the House Committee on Oversight and Government Reform during Sunshine Week.

### **Challenges ahead and the plan and approach to overcome them:**

We continue to be reminded that one of our primary challenges is "selling" the idea that OGIS's services will assist in the efficient administration of FOIA. While OGIS's outreach program has produced many tangible results, we have not yet reached many of our stakeholders. Specifically, the two stakeholder groups that OGIS would most like to reach are the Chief FOIA Officers and agency General Counsels. We believe that close collaboration with these stakeholders would do much to advance OGIS's statutory mission in a very effective way. We are currently developing a plan to reach these stakeholders.

Further, OGIS's increased caseload in FY 2011 presents a possible challenge. OGIS has learned a great deal about how to best perform its work and will continue to do the best that it can to fulfill its mission.



## OGIS Highlights for FY 11 Quarters 1 and 2

- ✓ Publishing OGIS's report on its first year of operations
- ✓ Making presentations to the public and agency personnel about our mission, the OGIS process of providing mediation services, and the FOIA process in general
- ✓ Developing a plan for issuing guidance on selected procedural topics
- ✓ Establishing OGIS's role as a resource to consult when drafting and/or revising FOIA regulations
- ✓ Refining and improving the one-day training course on dispute resolutions skills, offering the full-day course for the fourth time, and scheduling its presentation for an additional four times during this calendar year
- ✓ Assisting customers with 214 requests for OGIS assistance (closed cases)

## Looking Ahead:

OGIS plans to better educate FOIA requesters, implement a comprehensive plan for reviewing agency FOIA policies and procedures, regularly offer dispute resolution skills training, establish a permanent case management system and website, and develop a fully operational mediation program. Meeting these objectives will help us implement fully OGIS's mission to improve the FOIA process as well as realize President Obama's Open Government initiative and his January 21, 2009 FOIA Memorandum.