



The Freedom of Information Act Ombudsman
2024 REPORT FOR FISCAL YEAR 2023

Office of Government Information Services
The Freedom of Information Act Ombudsman
2024 Report for Fiscal Year 2023

Message from the Director*

I am pleased to present the Annual Report of the Office of Government Information Services (OGIS) for Fiscal Year (FY) 2023. As the Director of OGIS, it is with great pride that I reflect on our achievements and progress in fulfilling our mission as the Freedom of Information Act (FOIA) Ombudsman this past year, including helping to resolve FOIA disputes, identifying methods to improve compliance, and educating our stakeholders about the FOIA process.

Over the past year, OGIS has continued its dedication to facilitating communication between federal agencies and requesters, ensuring the greatest amount of access to information possible, and resolving disputes related to FOIA requests. Our commitment to openness and collaboration has been central to our success, and we have made significant strides in several key areas.

Highlights from FY 2023:

Dispute Resolution: OGIS has responded to more than 5,400 inquiries from requesters and FOIA professionals who have contacted us for assistance this past fiscal year. Our mediation services work in harmony with agency FOIA processes as we help requesters and agencies find common ground for resolving conflicts, reducing the need for litigation.

Compliance: In situations in which we observed practices that do not appear to comply with FOIA, OGIS has worked closely with government agencies to raise issues. Through collaborative efforts, we have identified best practices, helped agencies implement efficiencies, and provided support to agencies seeking to improve their FOIA processes.

Stakeholder Outreach: We have continued our commitment to engaging with stakeholders, including government agencies, advocacy groups, and the public. This outreach has enabled us to better understand the challenges faced by both requesters and agencies, fostering a more informed and cooperative environment.

Educational Initiatives: In our ongoing efforts to promote awareness and understanding of FOIA, OGIS has engaged in various educational initiatives, including participation in best practices workshops, webinars, and training sessions. These efforts aim to empower both

requesters and agencies with the knowledge and tools necessary to navigate the FOIA process successfully.

Technology Enhancements: Embracing technology, OGIS has implemented a new case management system that is assisting us to manage our incoming requests for assistance more efficiently and effectively. Looking ahead, OGIS remains committed to its mission and will continue to adapt to the evolving landscape of access to government information. We will explore new avenues for collaboration, including the use of technology and artificial intelligence to improve the efficiency of the FOIA process, and champion the principles of transparency and accountability.

This past year I continued to serve as a member of the Executive Committee of the [International Conference of Information Commissioners](#) (ICIC). Throughout FY 2023, I continued working with representatives from several other countries to review applications of new ICIC members and to improve transparency and access to information. I am proud of the contributions OGIS has made to the [ICIC's Gender and People in Vulnerable Situations Working Group](#).

This report fulfills OGIS's statutory responsibility to report annually to the House Committee on Oversight and Government Reform, the Senate Committee on the Judiciary, and the President on our work, 5 U.S.C. § 552(h)(4)(A). We issued no advisory opinions in FY 2023 and made no legislative and regulatory recommendations. Appendix A documents the number of times each agency engaged in dispute resolution with the assistance of OGIS or the agency FOIA Public Liaison.

I would like to express my gratitude to the dedicated OGIS team as well as to the hardworking FOIA professionals for their unwavering support and commitment to the ideals of open government. Together, we can continue to build a more transparent and accessible government for the benefit of all stakeholders.

Sincerely,



Alina M. Semo, Director
Office of Government Information Services

* (The views expressed in this report are those of the OGIS Director and do not necessarily represent the views of the President, 5 U.S.C. § 552(h)(4)(C).)

Executive Summary

As the federal FOIA Ombudsman, OGIS serves as a resource for information and assistance regarding the FOIA process. By listening to stakeholders and observing the FOIA process in action, we help to “resolve disputes ... as a nonexclusive alternative to litigation.”¹ By allowing our casework and assessments to serve as a FOIA barometer and studying a range of FOIA issues, we fulfill Congress’s mandate to review FOIA policies, procedures, and compliance and identify procedures and methods for improving compliance with FOIA.² By speaking about systemic change in a variety of ways, we are fulfilling Congress’s mandate to “identify procedures and methods for improving compliance” with FOIA.³ Running through all of our work is the holding of space for vital and sometimes difficult conversations to occur—a crucial core ombudsman function. Our work is guided by commonly accepted ombuds standards, which create pillars that bolster all of our functions.⁴

We are separate from individual agency FOIA programs, and we can submit reports, recommendations, testimony, or comments about FOIA directly to Congress without prior approval from any federal officer or agency. We are impartial in that we advocate for a fair and equitable FOIA administrative process rather than for the interests of either FOIA requesters or agencies. We are a trusted neutral third party and protect the identities of and communications with those who seek our assistance.

In FY 2023 we:

- Processed more than 5,400 requests for assistance from both FOIA requesters and federal agencies
- Provided six negotiation skills training sessions to FOIA professionals
- Issued a joint memo to all Chief FOIA Officers regarding the sunset of FOIAonline and FOIA.gov interoperability, in collaboration with U.S. Department of Justice Office of Information Policy
- Published two FOIA Ombuds Observers: *Decommissioning FOIAonline* and *Using FOIA to Access Immigration Records*
- Created two tables to catalog all of OGIS’s recommendations and best practices in our past 14 agency-specific and 11 issue-specific assessments, supplementing those previously published

¹ 5 USC § 552(h)(3).

² 5 USC §§ 552(h)(2)(A)-(B).

³ 5 USC § 552(h)(2)(C).

⁴ See, e.g., standards of practice outlined by the [International Ombuds Association \(IOA\)](#) and the [US Ombudsman Association \(USOA\)](#).

assessments. The tables highlight Agency Recommendations and Issue Assessment Recommendations and Best Practices and are broken down by topics and common themes.

- Chaired and managed the work of the 2022–2024 FOIA Advisory Committee (fifth term), including the passage of one recommendation in FY 2023
- Continued our partnership with the National Archives and Records Administration’s (NARA) Office of the Chief Records Officer (CRO) for the U.S. Government by asking all federal agencies six targeted questions about FOIA processes and the collaboration between Chief FOIA Officers and Agency Records Officers



FOIA OMBUDSMAN YEAR IN REVIEW FY 2023

COMMUNICATING WITH STAKEHOLDERS

45 blog posts

214 Twitter/X posts

SUPPORTING FOIA'S LEADERS

2 Chief FOIA Officers
Council Meetings

3 Chief Data Officers
Council Meetings

3 Federal Privacy Council
Meetings

4 FOIA Advisory
Committee Meetings

6 FOIA negotiation
trainings led by OGIS

Presented at Council of
Government Ethics Laws
Conference

Presented at American
Society of Access
Professionals Conference

ASSISTING CUSTOMERS

5,536 requests received

5,470 cases closed

98.4% of cases initiated
or acknowledged within
10 days

98.5% of cases closed
within 90 days

IDENTIFYING ISSUES

1 CFO Council Chair
Memorandum

1 Assessment on Agency
Websites

1 Agency Self-Assessment
Report

1 FOIA Recommendation

2 Ombuds Observers

Sunshine Week Activities
on Access to Information

Assisting Customers

Congress created OGIS to serve as the federal government’s FOIA Ombudsman⁵ and directed us to review agencies’ policies, procedures, and compliance with FOIA and to offer mediation services to resolve disputes between FOIA requesters and agencies. That work gives us a unique perch from which to observe how FOIA functions across the government.

We hear daily from requesters and agency FOIA professionals who seek our assistance in a variety of ways. Requesters seek guidance from us with regard to navigating the complex world of FOIA, which often merges with other federal issues, while agencies seek our advice on ways to improve their programmatic functions. This work is vital to our statutory mandate to identify procedures and methods to improve overall compliance with FOIA.

The FOIA statute mandates that OGIS “offer mediation services to resolve disputes between persons making [FOIA] requests ... and administrative agencies as a nonexclusive alternative to litigation.”⁶ OGIS’s mediation team was able to continue to keep up with the increased demand for our services in FY 2023:

- 5,536 requests for assistance received
- 5,470 requests for assistance closed
- 98.4% of requests initiated/acknowledged in 10 days
- 98.5% of requests closed within 90 days

Also in FY 2023, OGIS also received funding to add one more staff member, a Government Information Specialist—a new position to OGIS—to the mediation team.

Communication with Stakeholders

OGIS recognizes the significance of communicating with stakeholders; we strive to meet requesters where they are in the process and work to recognize trends and issues that affect agencies.

We value hearing from stakeholders in the federal FOIA landscape, and written public comments are an important way for OGIS as well as the FOIA Advisory Committee and Chief FOIA Officers Council (which the OGIS Director chairs and co-chairs, respectively) to better understand the experiences of FOIA requesters. In FY 2023, OGIS created a new tool to aid the public in submitting comments. The public comments portal launched in early January 2023 and allows the public to submit their comments to the FOIA Advisory Committee, the Chief FOIA Officers Council, and the OGIS Annual Meeting while streamlining our internal process. The new comments portal, which receives comments

⁵ See S. Rep. 114-4 at 2 (2015).

⁶ 5 U.S.C. § 552(h)(3).

in text format, ensures that all comments comply with Section 508 of the Rehabilitation Act and are posted in a format accessible to people with disabilities.

OGIS continues to increase engagement with stakeholders through its social media presence. In FY 2023, OGIS published 45 blog posts, averaging almost one a week, and 214 tweets on X (formerly Twitter). As a trusted neutral resource for FOIA stakeholders, OGIS uses these as avenues for continued important conversations about FOIA.

Supporting FOIA's Leaders

OGIS recognizes the need to support FOIA's leaders using a variety of methods and tools. In FY 2023 we offered a mix of public events and training to help meet this need. In addition, OGIS published several reports to supplement this work and provide tools to aid those who work in the FOIA environment.

Public Events

The 2023 Sunshine Week event consisted of a panel of representatives from multiple National Archives offices who discussed "[Making Access Happen: FOIA at the National Archives](#)." NARA staff answered questions about how FOIA makes access happen throughout the National Archives. National Archives General Counsel and Chief FOIA Officer Gary M. Stern moderated the program.

Our 2023 OGIS Annual Open Meeting allowed us to provide a robust overview of the previous year's work. This event included an in-depth review of OGIS's mediation program, updates on the work being done by both the Chief FOIA Officers Council and the FOIA Advisory Committee, and recommendations made to Congress in the FY 2022 Annual Report.

In FY 2023, we continued to host a wide range of public events, which were held virtually and livestreamed on the [National Archives YouTube channel](#).

Chief FOIA Officers Council

As Congress mandated with the passage of the FOIA Improvement Act of 2016, the Directors of OGIS and the Office of Information Policy (OIP) at the U.S. Department of Justice have continued to co-chair the Chief FOIA Officers (CFO) Council.⁷ The co-chairs convened this Council, its two Committees,

⁷ 5 USC § 552(k).

and working groups numerous times throughout FY 2023, including hosting two public Council meetings (November 3, 2022, and April 25, 2023). The co-chairs issued a [joint memo](#) on August 21, 2023, to all Chief FOIA Officers highlighting two items—FOIA.gov interoperability and the sunset of FOIAonline at the end of FY 2023.

FOIA Advisory Committee

The OGIS Director also chairs the FOIA Advisory Committee, established by the Archivist of the United States in 2014 in accordance with the [U.S. Second Open Government National Action Plan](#). The Committee’s work helps us fulfill the directive in FOIA that OGIS “identify procedures and methods for improving compliance” with FOIA.⁸ The Committee comprises 20 members representing both the requester community and FOIA professionals from a range of federal departments and agencies who are appointed by the Archivist of the United States to study the FOIA landscape and make recommendations for improvements.

The fifth term of the Committee began meeting in September 2022 and established three subcommittees — Implementation, Modernization, and Resources. The Committee passed one recommendation in FY 2023 (June 8, 2023) by a 15-0 vote with one abstention, and which states:

We recommend that the Office of Information Policy issue guidance stating that whenever an agency withholds information pursuant to Exemption 5, the agency should identify the corresponding privilege(s) invoked. If the withholding takes the form of a redaction, the identification of a privilege should be made part of the redaction label; if a record is withheld in full, the agency should identify privilege(s) in its determination letter.

Providing Targeted Training

Our training outreach work continues to grow and expand. OGIS offered negotiation training to federal agencies six times, including a daylong workshop at the American Society of Access Professionals National Training Conference. We also participated in training programs sponsored by the Department of Justice, Nuclear Regulatory Commission, Department of Education, Department of the Interior, and Defense Intelligence Agency. OGIS was once again invited to share information about its work at the Council on Government Ethics Laws annual conference, and we participated in a Federalist Society–sponsored panel on using FOIA to access government information.

⁸ 5 U.S.C. § 552(h)(2)(C).

Additional Support to FOIA Leaders

In FY 2023, OGIS attended meetings of both the Chief Data Officers (CDO) Council⁹ and the Federal Privacy Council, and we also presented to the CDO Council along with DOJ OIP. In addition, OGIS participated in the National Action Plan within the National Archives and contributed to the FOIA-related goals in the Fifth Open Government National Action Plan.

Also in FY 2023, OGIS published two *FOIA Ombuds Observers* with the goal of increasing awareness of and transparency in the FOIA process. Although the *FOIA Ombuds Observers* are designed to help primarily requesters, the publications are beneficial to both agencies and requesters as they address questions and issues frequently seen in our requests for dispute resolution assistance. OGIS published [Decommissioning of FOIAonline](#) on May 19, 2023, and [Using FOIA to Access Immigration Records](#) on September 18, 2023.

Identifying Issues

OGIS relies on several important channels of communication to identify and address systemic issues: our congressionally mandated compliance program, the CFO Council, and the FOIA Advisory Committee. While each is distinct, collectively they help OGIS identify broad issues.

Issue Assessments

OGIS published one issue assessment in FY 2023 on [Agency FOIA Websites](#). Specifically, we looked at agency FOIA websites to determine the clarity and availability of information about filing a FOIA request.

[Recommendation 2020-01](#) from the 2018–2020 term of the FOIA Advisory Committee seeks to help create a more efficient FOIA process through improved websites that educate FOIA requesters, improve the quality of requests, and answer frequently asked questions, thereby reducing the burden on both agencies and requesters. FOIA websites can significantly further the goal of transparency in government; however, to fully leverage the potential effectiveness, agencies must create content and layout for their websites geared toward FOIA requesters, especially novice requesters. The Committee recommended this assessment with the express intent that it inform further guidance by OIP.

In our assessment, [Agency FOIA Websites](#), we made three findings:

⁹ Both the Director of OGIS and the Director of OIP are *ex officio* members of the Chief Data Officers Council.

- Finding 1: Almost all agency FOIA websites OGIS visited have deficiencies in the information they include.
- Finding 2: There are some data points that almost all agencies include; however, a slim minority of agency websites have deficiencies.
- Finding 3: Agencies generally include ample information on their websites, but finding it can often be difficult.

OGIS also made two recommendations based on our findings as well as the 2018–2020 term of the FOIA Advisory Committee’s recommendation that OGIS encourage agencies to include FOIA in their performance plans.

- Recommendation 1: Agencies should address the deficiencies in the information they include about FOIA.
- Recommendation 2: Agencies should make finding information on websites easier.

In its assessment, OGIS concluded that many of the deficiencies could be remedied by implementing recommendations made by the 2020–2022 term of the FOIA Advisory Committee. Specifically, in Recommendation [2022-07](#), the Committee listed 16 elements that agencies should include on their FOIA websites, including links to descriptions of the records maintained by the agency and those that do not exist at the agency, agency records schedules, a FOIA request submission form, and contact information for agency FOIA personnel.

Records Management Self-Assessment

For the eighth consecutive year, we partnered with our NARA colleagues in the Office of the Chief Records Officer for the U.S. Government (CRO) on the Records Management Self-Assessment (RMSA), an annual survey to determine whether federal agencies are complying with statutory and regulatory records management requirements. Our partnership with the CRO has allowed us to expand our review of agency FOIA policies and procedures by asking targeted questions that help us identify potential compliance issues that merit further exploration.

The 2022 RMSA survey, with a 95-percent response rate and administered to agency records officers from January 9, 2023, to March 10, 2023, included six questions relating to FOIA. One question, which was repeated from the 2021 RMSA, sought to assess how Agency Records Officers work with Chief FOIA Officers across the government. Another question asked directly about the COVID-19 pandemic’s

continued impact on FOIA operations. Three of the remaining questions assessed use of e-discovery in FOIA searches, and the final question asked about frequency of proactive disclosure under FOIA.

[Key results](#) include:¹⁰

- Across the government, 79 percent of agencies reported either minimal or no pandemic-related backlog, while 18 percent of agencies reported a moderate or significant pandemic-related backlog.
- Seventy-three percent of those who responded reported using e-discovery tools in their FOIA searches, while 19 percent reported not using such tools. The most common use of e-discovery in FOIA searches involves requests for email records—88 percent of those agencies that use e-discovery reported using it for this reason. The most common reason why e-discovery is not used for FOIA is that it is unavailable at certain agencies—63 percent of FOIA offices that do not use e-discovery cited this as the reason.
- A majority of respondents (57 percent) make proactive disclosures “as needed” rather than routinely. A quarter (25 percent) of respondents reported making proactive disclosures on a routine basis, either annually (13 percent), quarterly (7 percent) or monthly (5 percent).

OGIS Staff

Director	Alina M. Semo
Deputy Director	Martha W. Murphy
Attorney-Advisor	Sheela Portonovo
Staff Assistant	Teresa Brady
Compliance Team	Kirsten B. Mitchell (Lead) Daniel Levenson Kimberlee Ried
Mediation Team	Carrie McGuire (Lead) Dwaine Bacon Amber Hagan (<i>as of 1/2024</i>) Jessica Hartman

¹⁰ Percentages may not equal 100 percent due to rounding and/or “choose all that apply” questions.

Appendix A

FOIA requires OGIS 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 chart below provides that information for fiscal year (FY) 2023.

The total number of OGIS cases does not equal the total number of cases OGIS handled in FY 2023 because some cases involved multiple agencies or requests. In other cases, mostly involving telephone calls, the name of the agency was not relevant to the issue, and OGIS did not note the agency name.

Department/Agency	No. of OGIS Cases in FY 2023	No. of times requesters sought assistance from the Agency FOIA Public Liaison in FY 2023*
Department of Homeland Security	1,083	51,312
Department of Justice	690	2,384
Department of Veterans Affairs	404	>500
Department of Defense	255	>2,000
Department of Health and Human Services	130	1619
Department of State	117	935
Department of the Interior	70	135
Department of the Treasury	55	1570
Department of Transportation	34	115
Department of Labor	30	592
Department of Agriculture	22	30
Department of Commerce	20	40
Department of Housing and Urban Development	19	5
Department of Energy	11	56
Department of Education	11	210

Social Security Administration	135	9,175
National Archives and Records Administration	111	>530
U.S. Postal Service	64	780
Equal Employment Opportunity Commission	54	141
Small Business Administration	49	1800
Central Intelligence Agency	45	0
Securities and Exchange Commission	43	<=10
Environmental Protection Agency	19	362
Pension Benefit Guaranty Corporation	9	12
Office of Personnel Management	8	50
Consumer Financial Protection Bureau	7	107
General Services Administration	7	225
Executive Office of the President: Office of Management and Budget	7	0
Federal Trade Commission	5	200
Merit Systems Protection Board	5	<5
National Aeronautics and Space Administration	4	4
Amtrak	3	100
Board of Governors of the Federal Reserve System	3	30
Federal Communications Commission	3	35
Federal Energy Regulatory Commission	3	100
National Transportation Safety Board	3	0
Office of the Director of National Intelligence	3	45
Peace Corps	3	0
U.S. Agency for International Development	3	<5
Council of Inspectors General on Integrity and Efficiency	2	10
Federal Housing Finance Agency	2	0
Selective Service System	2	n/a
Armed Forces Retirement Home	1	n/a
Commodity Futures Trading Commission	1	n/a

Executive Office of the President: Office of the National Cyber Director (ONCD)	1	n/a
Farm Credit Administration	1	n/a
Federal Deposit Insurance Corporation	1	15
Federal Financial Institutions Examination Council	1	n/a
National Credit Union Administration	1	3
National Mediation Board	1	n/a
National Science Foundation	1	0
Tennessee Valley Authority	1	7
Nuclear Regulatory Commission	1	1
U.S. International Trade Commission	0	0
U.S. Copyright Office	0	0
U.S. Consumer Product Safety Commission	0	50
U.S. Commission on Civil Rights	0	0
U.S. Agency for Global Media	0	12
Railroad Retirement Board	0	0
Office of Government Ethics	0	30
Occupational Safety and Health Review Commission	0	4
National Labor Relations Board	0	75
Federal Labor Relations Authority	0	2
Executive Office of the President: Council on Environmental Quality	0	15
Court Services and Offender Supervision Agency	0	4
Federal Election Commission	0	0
U.S. Election Assistance Commission	0	48
Export-Import Bank	0	10
Federal Mediation and Conciliation Service	0	4
Federal Mine Safety and Health Review Commission	0	1
Executive Office of the President: Office of Science and Technology Policy	0	0
Surface Transportation Board	0	0

Executive Office of the President: Office of the U.S. Trade Representative	0	70
Corporation for National and Community Service	0	n/a
National Endowment for the Arts	0	n/a
National Indian Gaming Commission	0	n/a
Office of Special Counsel	0	<5
Chemical Safety and Hazard Investigation Board	0	1
National Endowment for the Humanities	0	n/a
U.S. International Development Finance Corporation	0	n/a
Administrative Conference of the United States	0	n/a
Advisory Council on Historic Preservation	0	n/a
American Battle Monuments Commission	0	n/a
Appraisal Subcommittee	0	n/a
Commission of Fine Arts	0	n/a
Committee for Purchase from People Who Are Blind or Severely Disabled	0	n/a
Defense Nuclear Facilities Safety Board	0	n/a
Denali Commission	0	n/a
Executive Office of the President: Office of National Drug Control Policy	0	n/a
Farm Credit System Insurance Corporation	0	n/a
Federal Maritime Commission	0	n/a
Federal Open Market Committee	0	n/a
Federal Retirement Thrift Investment Board	0	n/a
Gulf Coast Ecosystem Restoration Council	0	n/a
Harry S. Truman Scholarship Foundation	0	n/a
Institute of Museum and Library Services	0	n/a
Inter-American Foundation	0	n/a
James Madison Memorial Fellowship Foundation	0	n/a
Legal Services Corporation	0	n/a
Marine Mammal Commission	0	n/a

Millennium Challenge Corporation	0	n/a
Morris K. Udall Foundation	0	n/a
National Capital Planning Commission	0	n/a
National Commission on Military, National, and Public Service	0	n/a
National Council on Disability	0	n/a
Neighborhood Reinvestment Corporation	0	n/a
Nuclear Waste Technical Review Board	0	n/a
Office of Navajo and Hopi Indian Relocation	0	n/a
Postal Regulatory Commission	0	n/a
Presidio Trust	0	n/a
Privacy and Civil Liberties Oversight Board	0	n/a
Social Security Advisory Board	0	n/a
Special Inspector General for Afghanistan Reconstruction	0	n/a
U.S. AbilityOne Commission	0	n/a
U.S. Access Board	0	n/a
U.S. African Development Foundation	0	n/a
U.S. Commission for the Preservation of America's National Heritage Abroad	0	n/a
U.S. Institute of Peace	0	n/a
U.S. Interagency Council on Homelessness	0	n/a
U.S. International Boundary and Water Commission	0	n/a
U.S. Trade and Development Agency	0	n/a

*From [2024 Chief FOIA Officer Reports](#). N/A means that the agency processed 50 or fewer requests in FY 2022 and this was not required to report on requesters seeking assistance from the FOIA Public Liaison. (See [Guidelines for 2024 Chief FOIA Officer Reports](#).)



www.archives.gov/ogis