

**May 30, 2023**

**To: 2022-2024 FOIA Advisory Committee**

**From: Modernization Subcommittee of the 2022-2024 FOIA Advisory Committee**

**Re: Two Items for Public Discussion**

The Modernization Subcommittee forwards the following items for consideration at the next public meeting of the full FOIA Advisory Committee, scheduled for June 8, 2023.

First, we have prepared a recommendation proposing that the Office of Information Policy issue guidance directing agencies to identify the specific Exemption 5 privileges being invoked when an agency withholds documents in full or in part under Exemption 5. We propose a simple labelling scheme to accompany redactions when documents are withheld in part, and further propose that the determination letter set forth specific privileges invoked where documents are withheld in full. See Attachment A.

Second, we have prepared a draft model determination letter for consideration by the FOIA Advisory Committee at its next public meeting. In doing so, we wish to solicit feedback not only from members of the FOIA Advisory Committee, but also from agencies, the FOIA requestor community, and the public at large, before we finalize language in the model letter in a formal recommendation. We ask that the Chair of the FOIA Advisory Committee announce at the public meeting that the Committee requests that comments on the proposed letter be submitted within 30 days after the public meeting. In accordance with Committee practice, all comments received will be posted on the public OGIS website. Members of the Subcommittee will proceed to review all comments received, after which we will intend to forward a revised proposal in the form of a recommendation to the full Committee for further action at the next public meeting in September 2023. See Attachment B.

Modernization Subcommittee Members:

Jason R. Baron (co-chair)  
Gorka Garcia-Malene (co-chair)  
Allyson Deitrick  
Michael Heise  
Alex Howard  
Adam Marshall  
Luke Nichter  
Thomas Susman  
Ben Tingo

Attachments