



OGIS

OFFICE *of* GOVERNMENT
INFORMATION SERVICES

The Freedom of Information Act Ombudsman
2023 REPORT FOR FISCAL YEAR 2022

**Office of Government Information Services
The Freedom of Information Act Ombudsman
2023 Report for Fiscal Year 2022**

Message from the Director

With the publication of this 2023 Office of Government Information Services (OGIS) Annual Report to Congress and the President of the United States, I mark my seventh year as OGIS Director. Fiscal year (FY) 2022 came on the heels of three years that challenged both OGIS and the administration of the Freedom of Information Act (FOIA) governmentwide in unexpected ways. FY 2019 saw the longest shutdown in the history of the federal government — nearly five weeks — which increased backlogs for FOIA programs and requesters seeking OGIS assistance. FY 2020 and FY 2021 will forever be remembered for the COVID-19 pandemic upending the world as we know it, with no facet of life — including FOIA — untouched. I am pleased to report that FY 2022 presented fewer challenges than in the prior three years. We continued to provide high-quality services in our role as the federal FOIA Ombudsman, serving as a neutral and trusted voice for the FOIA process.

Last year, I reported my election to represent the United States on the first Executive Committee of the International Conference of Information Commissioners (ICIC).¹

Throughout

FY 2022, I continued working with representatives from six other countries (Albania, Bermuda, Chile, Kenya, Philippines and South Africa) to lead efforts to protect and promote access to information, and improve transparency and accountability for all. I am proud to be part of the global discussion about protecting and promoting access to information that undergirds our democracy. As trust in government is challenged, access to information serves as a critical salve both here and abroad.

OGIS's work in FY 2022 would not have been possible without the support of then Acting Archivist of the United States Debra Steidel Wall. Our continued partnership with the Chief Records Officer for the U.S. Government, Laurence Brewer, and his staff, has been invaluable as we work together to forge a vital connection between FOIA and records management.

¹ <https://www.informationcommissioners.org/meet-the-executive-committee/>.

We are pleased to share with you this report on our work over the last fiscal year. As always, we look forward to hearing your thoughts and continuing vital conversations about FOIA.

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 Freedom of Information Act (FOIA) Ombudsman, OGIS serves as a resource for information and assistance about 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.”² 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.³ 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.⁴ Running through all of our work is holding space for vital and sometimes difficult conversations to occur—a vital core ombudsman function. Our work is guided by commonly accepted ombuds standards, which create pillars that bolster all of our functions.⁵

² 5 USC § 552(h)(3).

³ 5 USC §§ 552(h)(2)(A)-(B).

⁴ 5 USC § 552(h)(2)(C).

⁵ See, e.g., standards of practice outlined by the [International Ombuds Association \(IOA\)](#) and the [US Ombudsman Association \(USOA\)](#).

Among our activities in FY 2022:

- Handling over 4,500 requests for assistance — from both FOIA requesters and agencies.
- Providing a new virtual training program on negotiation for FOIA professionals
- Leading and collaborating with the Chief FOIA Officers Council Technology Committee and the U.S. Department of Justice Office of Information Policy to showcase FOIA technology for federal agencies from 19 vendors in response to FOIA case processing challenges raised through the Technology Committee’s research.
- Publishing an assessment to fulfill a recommendation made by the 2018-2020 term of the FOIA Advisory Committee on FOIA’s inclusion in Agency Performance Plans.
- Leading and managing the FOIA Advisory Committee and four subcommittees through a fourth Committee term and delivering 20 recommendations for improving FOIA administration governmentwide to the Acting Archivist of the United States.
- Continuing our partnership with the National Archives and Records Administration’s Office of the Chief Records Officer (CRO) for the U.S. Government by asking all federal agencies questions about the COVID-19 pandemic’s continued effect on their FOIA processes, and the collaboration between Chief FOIA Officers and Agency Records Officers.

OGIS’s Role as the FOIA Ombudsman

Congress created OGIS to serve as the federal government’s FOIA Ombudsman⁶ and directed us to review agencies’ policies, procedures, and compliance with the 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 every day from requesters and agency FOIA professionals — from the least experienced to the most seasoned — who seek our assistance in a variety of ways. Requesters come to us seeking assistance with navigating the process, while agencies come to us seeking assistance with improving their program’s efficiency and their communications with

⁶ See S. Rep. 114-4 at 2 (2015).

requesters. This work is vital to our statutory mandate to identify procedures and methods to improve overall compliance with FOIA.

In short, we listen to and observe the FOIA process in action, hold space for crucial conversations, and identify broad systemic issues ripe for attention and change.

The commonly accepted ombuds standards of independence, impartiality, and confidentiality⁷ buttress our work. We are separate from individual agency FOIA programs, and we can submit reports, recommendations, testimony or comments about the 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.

Listening to Stakeholders through Dispute Resolution

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.”⁸ In FY 2022, OGIS received more than 4,300 requests for assistance, and closed more than 4,500 cases, including many cases from previous years.

As in previous years, requesters and agencies contacted OGIS for assistance at every stage in the FOIA process. We strive to meet requesters where they are in the process, whether it is clarifying the administrative path forward for an inexperienced requester or engaging deeply in complex issues raised by a seasoned FOIA stakeholder. We also monitor trends in the issues brought to us and communicate back to agencies how changes in their process may improve their administration of FOIA. In this way, our individual mediation cases serve as a barometer for the FOIA process governmentwide, and provide us with a valuable mechanism for listening to — and observing the experiences of — FOIA requesters.

FY 2022 also saw the development of OGIS’s new case management system, which streamlines OGIS’s internal case-entry process. This months-long effort resulted in a tool that was poised for implementation at the beginning of FY 2023.

⁷ See 2016 Administrative Conference of the United States (ACUS) Recommendation 2016-5, [“A Reappraisal – The Nature And Value Of Ombudsmen In Federal Agencies Part 2: Research Report.”](#)

⁸ 5 U.S.C. § 552(h)(3).

Holding Space for Vital Conversations

As a trusted neutral resource for FOIA stakeholders, OGIS provides a venue for important conversations about FOIA. While the COVID-19 pandemic forced these conversations into the virtual space beginning in March 2020, that shift brought with it the opportunity to hear from a wider variety of stakeholders beyond Washington, D.C. In FY 2022, we continued to host a wide range of public events, which were held virtually and live streamed on the [National Archives YouTube channel](#).

Public Events

We endeavor to be as accessible as possible to FOIA stakeholders, providing venues for conversations and using what we learn to raise awareness regarding broad, systemic issues ripe for attention and change. Our goal is to build trust in the FOIA process. Public comment and engagement are encouraged at OGIS's public meetings including quarterly meetings of the FOIA Advisory Committee, twice-yearly meetings of the Chief FOIA Officers Council and our OGIS Annual Open Meeting. We have a robust social media presence through our blog — [The FOIA Ombudsman](#), and our [Twitter account](#).

Our 2022 OGIS Annual Open Meeting allowed us to have a conversation about a topic that we have observed has significantly frustrated both agency FOIA professionals and FOIA requesters: estimated dates of completion (EDCs) which FOIA requires agencies to provide upon request. FOIA requesters who are unable to obtain EDCs or, in some cases, any information from agencies about the status of their requests, frequently contact OGIS for assistance. Likewise, frustrated FOIA processors have told us about the challenges of providing requesters with EDCs, particularly when faced with mounting backlogs.

The OGIS Director moderated a panel, “Challenges and Opportunities Presented by FOIA’s Estimated Date of Completion Requirement,” at the June 29, 2022, OGIS Annual Meeting. Representatives from the Federal Bureau of Investigation, the Federal Emergency Management Agency, and the U.S. Postal Service discussed EDCs, providing concrete examples of how they meet the EDC statutory requirement. The annual meeting also featured a panel of FOIA Advisory Committee members who discussed the Committee’s recommendations that had been passed a few weeks earlier.

OGIS's event celebrating Sunshine Week at the National Archives has become an important fixture in the nationwide celebration of transparency. In FY 2022, as the retirement of Archivist David S. Ferriero neared after his 12 years at the helm of the National Archives, OGIS organized a program featuring philanthropist and National Archives supporter David M. Rubenstein leading a conversation with Librarian of Congress Dr. Carla Hayden and Mr. Ferriero. The Sunshine Week program also featured recorded remarks from U.S. Senator Patrick Leahy, whose mark on FOIA dates back to the 1974 amendments to the law. Sen. Leahy retired at the end of 2022. The program also featured several short videos from FOIA requesters on the meaning of open government and transparency.

Receiving Comments from Stakeholders

As Congress mandated with the passage of the FOIA Improvement Act of 2016, the Directors of OGIS and OIP co-chair the CFO Council.⁹ The co-chairs convened this Council, its two Committees, and working groups numerous times throughout FY 2022, including hosting two public Council meetings (November 17, 2021, and April 21, 2022).

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.¹⁰ 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 fourth term and its four subcommittees — Classification, Legislation, Process, and Technology — ended in FY 2022 with 21 recommendations (20 in FY 2022 and one in FY 2021). The recommendations for improving the FOIA process span a range of topics, including "Neither Confirm Nor Deny"/*Glomar* responses, classified information, online access enhancements, FOIA and accessibility, alternatives to FOIA access, and "reimagining OGIS." Archivist David S. Ferriero accepted one recommendation in 2021 that recommended he ask Congress to expand public access to federal records in congressional support offices by creating disclosure procedures modeled after FOIA. In 2022, then Acting Archivist Debra

⁹ 5 USC § 552(k).

¹⁰ 5 U.S.C. § 552(h)(2)(C).

Steidel Wall accepted 15 recommendations and deferred four pending the outcome of a recommendation that a feasibility study be commissioned to study ways OGIS could be reimagined by giving us the authority to make binding decisions and allowing us to review records *in camera*. Ms. Wall rejected one of the Committee’s recommendations related to OGIS’s organizational placement. For a full list of recommendations from the 2020-2022 term of the FOIA Advisory Committee, see Appendix B.

Before retiring, Mr. Ferriero signed the charter for a fifth term of the FOIA Advisory Committee and the Acting Archivist of the United States appointed its members in August 2022. The Committee had two meetings in September 2022. After an orientation session at the first meeting, the Committee members organized themselves into three subcommittees that are looking into the implementation of past Committee recommendations (Implementation), ways to modernize FOIA administration (Modernization), and how to increase resources for FOIA programs (Resources).

OGIS’s role in hosting important conversations includes receiving input from all stakeholders. We have received and posted numerous public comments in connection with our Annual Open Meeting, the FOIA Advisory Committee, and the Chief FOIA Officers Council.

Providing Targeted Training

Over the last decade, OGIS’s “Dispute Resolution Skills for FOIA Professionals” training program has been a valuable resource and forum for FOIA professionals. Although the COVID-19 pandemic prevented OGIS from hosting this popular training program in person, we launched a pilot online version of our training in FY 2021 for one agency. Reviews of the training were favorable, and we rolled out our virtual training more broadly in FY 2022.

Identifying and Addressing Systemic Issues

OGIS uses 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 raise broad systemic issues. Another important tool is our congressional mandate to make recommendations to Congress and the President for improving the FOIA process, which we address further below.

Issue Assessments

OGIS published one issue assessment in FY 2022 on FOIA in Agency Performance Plans.

In response to a [recommendation](#) from the 2018-2020 term of the FOIA Advisory Committee that OGIS and OIP review FOIA performance measures used in agency performance plans and reports, OGIS and OIP discussed and agreed that OGIS would conduct the assessment. OGIS reviewed the available annual performance plans and reports for all 15 Cabinet-level departments and the independent agencies that received more than 50 FOIA requests in the Fiscal Year 2020. OGIS assessed whether agencies' annual performance plans and performance reports mentioned FOIA and, if so, included FOIA performance goals, measures, and results.

The assessment, [The Freedom of Information Act's Inclusion in Agency Performance Plans](#), had two findings:

- One-quarter of departments and agencies reviewed included FOIA in their agency performance plans.
- FOIA performance goals and measures vary widely across agencies that include FOIA in their annual performance plans.

OGIS also made two recommendations based on the findings and the recommendation by the 2018-2020 term of the FOIA Advisory Committee that OGIS encourage agencies to include FOIA in their performance plans.

- Recommendation 1: All federal agencies that receive more than 50 FOIA requests annually should include FOIA in their annual performance plans.
- Recommendation 2: Agencies should include specific FOIA goals along with metrics in their annual performance plans for accountability and to leverage FOIA toward furthering an agency's mission.

Finally, consistent with the FOIA Advisory Committee's recommendation, OGIS is submitting the results of its review and any recommendations to Congress and the President. This annual report formally relays the results to Congress and the President in accordance with the Committee's recommendation.

Records Management Self-Assessment

For the seventh 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 2021 RMSA survey, with a 96-percent response rate and administered to agency records officers from January 10, 2022, to March 11, 2022, included three questions regarding the challenges of administering FOIA during the pandemic and one question about collaboration between agency Chief FOIA Officers and Agency Records Officers.

[Key results](#) include:

- Over half of all respondents (51 percent) reported that the COVID-19 pandemic did not disrupt their agency's ability to respond to FOIA requests. Forty-five percent of agencies reported a disruption to their ability to respond to FOIA requests. A majority of respondents (78 percent) whose FOIA programs were disrupted reported that their agency's paper records were inaccessible due to office closures while just over half (51 percent) reported that agency staff were not available to search for records.
- A majority of respondents (73 percent) reported that their agencies worked directly with requesters to tailor their requests for most efficient processing during the COVID-19 pandemic. Fifty-five percent said that they included information about anticipated delays in requester communications, including acknowledgement letters; 54 percent assessed their technology to ensure the most efficient administration of FOIA; and 51 percent reported that their agencies posted notices on their FOIA websites informing requesters of the most efficient ways to make requests.
- Over half of respondents (56 percent) reported that the Agency Records Officer and the Chief FOIA Officer work together on information technology (IT) requirements that benefit both programs, which is 5 percentage points higher than the previous year's 51 percent. Additionally, exactly 50 percent reported this year that they work together to identify programs or offices most likely to have responsive records, a 6-percentage point increase over the previous year.

Recommendations to Congress

The FOIA statute authorizes OGIS to submit “[l]egislative and regulatory recommendations, if any, to improve the administration of FOIA.” 5 U.S.C. § 552(h)(4)(A)(iii). In this report, we make no new recommendation to Congress but reaffirm a recommendation that we made in 2022 and that continues to be ripe for consideration. We also provide an update on two prior OGIS recommendations involving the Government Accountability Office.

Congress should adopt rules or enact legislation to establish procedures for effecting public access to legislative branch records in the possession of congressional support offices and agencies modeled after those procedures contained in the Freedom of Information Act. These should include requirements for proactive disclosure of certain information, procedures governing public requests for records, time limits for responding to requests, exemptions to be narrowly applied, and an appeal from any initial decision to deny access.

Discussion

The 2020-2022 term of the FOIA Advisory Committee recommended in June 2021 that Congress establish public access to the records of congressional support offices and Archivist of the United States David S. Ferriero accepted the [recommendation](#). On May 15, 2022, we sent a letter to the Chairs and Ranking members of the Senate Committee on the Judiciary and the House Committee on Oversight and Reform regarding this recommendation. [The Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021](#) transmitted the recommendation to all members of Congress.

This recommendation had its genesis in the 2018-2020 term of the FOIA Advisory Committee which noted in its Final Report and Recommendations to the Archivist of the United States:

In the spirit of expanding the reach of FOIA, we believe that the next term of the Committee should give due consideration to the possibility of extending some aspects of FOIA to parts of the legislative and judicial branches.

The Legislation Subcommittee of the 2020-2022 term of the Committee carefully studied this issue; and the full Committee passed the recommendation on June 13, 2021. It is important to note that the Committee did not recommend that the records of Congress, its Committees,

or individual member offices be covered by such disclosure procedures. The Subcommittee also recognized that in many ways, the legislative branch has been among the most transparent of the three branches of government and in recent decades has taken additional steps to increase public access to its work.

As the Committee noted, and we reemphasized in our 2022 report and again in this report, congressional support offices are funded by taxpayer dollars and “perform functions similar or even identical to those performed by executive branch entities that are fully covered by FOIA, such as law enforcement (Capitol Police); auditing, buildings and grounds maintenance (Architect of the Capitol); inspecting and adjudicating (Government Accountability Office); budgeting (Congressional Budget Office); publishing (Government Publishing Office); enforcing rights (Office of Congressional Workplace Rights); maintaining the library (Library of Congress); and performing research and drafting reports (Congressional Research Service).”

As public trust in all three branches of government diminishes, we believe greater transparency such as that called for in this recommendation would help bolster wavering confidence in our democracy.

In our 2022 annual report, we made two recommendations stemming from FOIA Advisory Committee recommendations regarding increased oversight of FOIA by the U.S. Government Accountability Office (GAO), which the FOIA statute specifically contemplates.¹¹ GAO, often called the “congressional watchdog,” is a legislative branch agency that provides auditing, evaluating, and investigating services.

The 2018–2020 term of the FOIA Advisory Committee recommended that the Archivist task OGIS with asking Congress to (1) engage in regular and robust oversight of FOIA, hold more hearings, establish regular and coordinated communication with agencies, and strengthen OGIS with clearer authority and expanded resources (*Recommendation No. 2020-19*); and (2) address funding for agency FOIA programs and ensure that agencies have sufficient resources to comply with FOIA (*Recommendation No. 2020-20*).

With regard to *Recommendation No. 2020-19*, OGIS made the following recommendation in 2022:

¹¹ 5 U.S.C. § 552(h).

Congress should consider asking GAO to pinpoint either systemic or specific compliance issues that Congress could then address in a more targeted, surgical fashion, either through hearings or additional inquiries.

As the 2018–2020 term of the FOIA Advisory Committee explained in its final report, “in the absence of oversight from Congress, FOIA otherwise lacks a sustaining enforcement mechanism. It is incumbent upon Congress to ensure that our country has a robust, well-funded, and carefully considered overall FOIA program to deliver the transparency and accountability that the American people deserve and expect.” The final report provides specific recommendations for ways that oversight could be achieved, including increased hearings and inquiries as to agency performance.

As we noted in last year’s report, we support regular and coordinated communication between Congress and federal agencies. However, having more hearings and formal inquiries may not necessarily achieve the intended result of robust, well-funded, and carefully considered FOIA programs. Rather, oversight in the form of additional hearings and inquiries risks imposing additional burdens on agency FOIA programs that are already straining to respond to FOIA requests.

We are pleased that in direct response to a request from the chairs and ranking members of the Senate Committee on the Judiciary and the House Committee on Oversight and Accountability, GAO initiated an engagement on agency FOIA request backlogs (GAO No. 106535) in March 2023. We look forward to GAO’s findings and recommendations that we believe will help address the Committee’s recommendation as well as one of FOIA’s biggest challenges.

While GAO’s engagement on FOIA backlogs is not directly about funding for agency FOIA programs, we expect agencies will bring funding issues to GAO’s attention, which ties directly to FOIA Advisory Committee *Recommendation No. 2020-20*. In response to that recommendation, OGIS recommended in its 2022 annual report:

Congress should consider asking GAO to conduct a study of the funding for agency FOIA programs to determine whether agencies have adequate funding to comply with FOIA and respond to requests in a timely manner, and what additional resources agencies in fact need in order to improve the FOIA process overall. OGIS has gained a significant amount of experience in assessing agency FOIA programs and stands ready and available to assist GAO with these efforts.

As we noted in our 2022 annual report, we fully support any efforts in Congress to increase funding for agency FOIA programs that demonstrate the need and can document how they will use increased funding to improve the FOIA process, including decreasing backlogs and increasing efficiency and effectiveness. We note, in particular, that the 2018–2020 term of the Committee recommended that agencies “conduct a comprehensive review of their technological and staffing capabilities within two years to identify the resources needed to respond to current and anticipated future FOIA demands.” (*Recommendation No. 2020-13*). Such a review, we believe, would put agency FOIA programs on a firm footing for asking their agency leadership and Congress for more resources in a more targeted fashion.

OGIS Staff

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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) 2022.

The total number of OGIS cases does not equal the total number of cases OGIS handled in FY 2022 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.

Agency	No. of OGIS Cases in FY 2022	No. of times requesters sought assistance from the Agency FOIA Public Liaison in FY 2022 ¹²
Department of Justice	745	30,897
Department of Homeland Security	687	32,123
Department of Defense	237	2,000
Department of Labor	175	630
Department of Veterans Affairs	162	> 500
Department of Health and Human Services	159	500
Social Security Administration	142	7,573
National Archives and Records Administration	116	130
Department of State	99	945
Department of the Interior	79	100
Department of the Treasury	70	1,276
Department of Transportation	58	325
Small Business Administration	57	1,500
Equal Employment Opportunity Commission	50	456
U.S. Postal Service	49	2,080
Central Intelligence Agency	41	0
Securities and Exchange Commission	22	10
Environmental Protection Agency	21	224
Department of Commerce	18	40

¹² From [2023 Chief FOIA Officer Reports](#). N/A means that the agency processed 50 or fewer requests in FY 2021 and thus was not required to report on requesters seeking assistance from the FOIA Public Liaison. (See "[Guidelines for 2023 Chief FOIA Officer Reports](#)").

Department of Agriculture	17	35
Department of Education	17	5
Department of Housing and Urban Development	17	4
Pension Benefit Guaranty Corporation	12	7
General Services Administration	9	225
Department of Energy	8	23
Federal Trade Commission	7	150
Office of Personnel Management	7	25
Federal Deposit Insurance Corporation	6	35
Board of Governors of the Federal Reserve System	5	10
National Transportation Safety Board	4	0
U.S. Copyright Office	3	n/a
Consumer Financial Protection Bureau	3	139
U.S. Consumer Product Safety Commission	3	60
Amtrak	3	50
Commodity Futures Trading Commission	3	5
Tennessee Valley Authority	3	3
Federal Housing Finance Agency	2	n/a
National Mediation Board	2	n/a
National Labor Relations Board	2	50
Office of the Director of National Intelligence	2	50

Federal Communications Commission	2	45
U.S. Agency for International Development	2	2
Corporation for National and Community Service	1	n/a
National Endowment for the Arts	1	n/a
National Indian Gaming Commission	1	n/a
Office of Special Counsel	1	205
Executive Office of the President: Office of the U.S. Trade Representative	1	60
U.S. Election Assistance Commission	1	25
Peace Corps	1	3
National Credit Union Administration	1	2
Executive Office of the President: Office of Science and Technology Policy	1	1
Merit Systems Protection Board	0	<5
Export-Import Bank	0	12
Council of Inspectors General on Integrity and Efficiency	0	10
Executive Office of the President: Council on Environmental Quality	0	10
National Aeronautics and Space Administration	0	7
Court Services and Offender Supervision Agency	0	4
Office of Government Ethics	0	3

Executive Office of the President: Office of Management and Budget	0	2
Nuclear Regulatory Commission	0	2
Occupational Safety and Health Review Commission	0	2
U.S. Agency for Global Media	0	2
Federal Election Commission	0	1
Federal Labor Relations Authority	0	1
Chemical Safety and Hazard Investigation Board	0	0
Farm Credit Administration	0	0
National Endowment for the Humanities	0	0
National Science Foundation	0	0
Railroad Retirement Board	0	0
U.S. International Development Finance Corporation	0	0
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
Armed Forces Retirement Home	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 Energy Regulatory Commission	0	n/a
Federal Financial Institutions Examination Council	0	n/a
Federal Maritime Commission	0	n/a
Federal Mediation and Conciliation Service	0	n/a
Federal Mine Safety and Health Review 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
Selective Service System	0	n/a
Social Security Advisory Board	0	n/a
Special Inspector General for Afghanistan Reconstruction	0	n/a
Surface Transportation Board	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. Commission on Civil Rights	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. International Trade Commission	0	n/a
U.S. Trade and Development Agency	0	n/a

Appendix B

FOIA Advisory Committee Recommendations to the Archivist — 2020–2022 Term	
Recommendation	Status as of May 2023
No. 2021-01 The Archivist of the United States will ask Congress to expand public access to federal records in congressional support offices by creating disclosure procedures modeled after FOIA.	COMPLETED The Office of Government Information Services (OGIS) delivered the recommendation to the Archivist of the United States after the Committee’s vote at its June 10, 2021, meeting. OGIS transmitted the recommendation in letters to the chairpersons and ranking members of the Senate Committee on the Judiciary and the House Committee on Oversight and Reform on May 15, 2022.
No. 2022-01 The Department of Justice Office of Information Policy (OIP) should issue guidance to agencies that they use the internationally recognized “Neither Confirm Nor Deny” (NCND) instead of <i>Glomar</i> .	PENDING
No. 2022-02 Agencies should report annually on agency use of “Neither Confirm Nor Deny”/ <i>Glomar</i> responses.	IN PROGRESS Agencies reported in their 2023 Chief FOIA Officer Reports whether they track whether a request involved a <i>Glomar</i> response and if so, the number of times such a response was issued fully or partially, and the number of times a <i>Glomar</i> response was issued by exemption. Agencies that do not track the use of <i>Glomar</i> responses were asked to describe what resources and time would be needed to track such responses in the future.
No. 2022-03 Agencies should post on their FOIA websites information for requesters about “Neither Confirm Nor Deny”/ <i>Glomar</i> responses.	PENDING

<p>No. 2022-04 A relevant organization should study the use of “Neither Confirm Nor Deny”/Glomar responses.</p>	<p>PENDING</p>
<p>No. 2022-05 Executive order (EO) 13526 should be amended to require that in cases where information withheld from public release does not contain the markings specified in the governing Executive Order, agencies must add these markings.</p>	<p>PENDING</p>
<p>No. 2022-06 The Archivist of the United States will request that the Inspector General for the Intelligence Community review agencies’ compliance with EO 13526 particularly as it related to marking of classified information.</p>	<p>PENDING</p>
<p>No. 2022-07 The Department of Justice Office of Information Policy (OIP) will encourage agencies to post on their FOIA websites certain information beyond what is required by law.</p>	<p>IN PROGRESS OIP will take this recommendation into account when it updates guidance on FOIA webpages. OIP’s existing guidance on proactive disclosures encourages agencies to go beyond FOIA’s requirements in posting records to their websites. The Attorney General’s FOIA Guidelines also emphasize the importance of maximizing efforts to post more records online.</p>
<p>No. 2022-08 The Chief FOIA Officers Council will establish a working group within two years to determine best practices for release of records in native format, including metadata.</p>	<p>PENDING</p>
<p>No. 2022-09 The Chief FOIA Officers Council should establish a working group to study and recommend resolutions to challenges between FOIA and 508 compliance.</p>	<p>COMPLETED A working group of the Technology Committee of the Chief FOIA Officers Council examined the intersection of 508 compliance and FOIA (See Recommendation 2018-04). The 508 Compliance and Collaborative Tools Working Group continues to work on the challenges in fiscal year 2023.</p>
<p>No. 2022-10 Agencies should endeavor to provide regular and proactive online publication of searchable PDF logs containing certain information in Excel/CSV (comma-separated values) format.</p>	<p>IN PROGRESS In a March 15, 2022, Memorandum for Heads of Departments and Agencies, the Attorney General issued FOIA guidelines emphasizing the importance of proactive disclosures.</p>
<p>No. 2022-11 The Department of Justice (DOJ) Office of Information Policy (OIP) will urge agencies to remove from first-person FOIA practice any records that agencies use to determine the</p>	<p>COMPLETED In a March 15, 2022, Memorandum for Heads of Departments and Agencies, the Attorney General issued FOIA Guidelines encouraging agencies to examine whether they have records</p>

<p>individual’s eligibility for benefits or affect an individual in proceedings.</p>	<p>they would make more readily accessible without requiring individuals to file FOIA requests. Additionally, agencies reported in their 2021, 2022 and 2023 Chief FOIA Officer Reports on whether they have explored alternative means of access to first-person information.</p>
<p>No. 2022-12 Agencies should amend any regulations, directives, policies, and guidance to provide individuals, regardless of whether they have legal representation in agency proceedings, access to records about themselves.</p>	<p>IN PROGRESS Agencies reported in their 2021, 2022 and 2023 Chief FOIA Officer Reports on whether they have explored alternative means of access to first-person information. The Attorney General’s FOIA Guidelines also encourage agencies to examine whether they have records they could make more readily accessible without requiring individuals to file FOIA requests.</p>
<p>No. 2022-13 Agencies that receive first-person requests should identify the most commonly requested record and develop a plan for processing such records that leverages technology, and promotes efficiency and good customer service.</p>	<p>IN PROGRESS The Attorney General’s FOIA Guidelines note that DOJ’s Executive Office for Immigration Review changed its handling of requests for records of immigration court proceedings. Additionally, agencies reported in their 2021, 2022 and 2023 Chief FOIA Officer Reports on whether they have explored alternative means of access to first-person information.</p>
<p>No. 2022-14 A comprehensive assessment of the Department of Homeland Security (DHS) processes, workforce and technology should be initiated as it relates to A-Files responsive to FOIA requests.</p>	<p>PENDING A subcommittee of the Homeland Security Advisory Council, formed to independently advise the DHS Secretary, recommended in March 2023 that DHS engage an internal component or a contractor to assess the agency’s first-person requests and make recommendations for the design and implementation of an alternative system. The recommendation goes on to say that any assessment should be completed within 12 months of initiation, and that DHS should seek funding from Congress for such a study.</p>
<p>No. 2022-15 Congress should give OGIS the authority to make binding decisions.</p>	<p>DEFERRED The Acting Archivist of the United States paused action on this recommendation pending review of the outcome of Recommendation 2022-19.</p>
<p>No. 2022-16 Congress should give OGIS the authority to review records <i>in camera</i>.</p>	<p>DEFERRED The Acting Archivist of the United States paused action on this recommendation pending review of the outcome of Recommendation 2022-19.</p>

<p>No. 2022-17 Congress should create a direct line-item appropriation for OGIS.</p>	<p>DEFERRED The Acting Archivist of the United States paused action on this recommendation pending review of the outcome of Recommendation 2022-19.</p>
<p>No. 2022-18 Congress should increase OGIS's budget.</p>	<p>DEFERRED The Acting Archivist of the United States paused action on this recommendation pending review of the outcome of Recommendation 2022-19.</p>
<p>No. 2022-19 The Archivist of the United States should commission a feasibility study, incorporating input from requesters and agencies, to more deeply explore the costs and benefits of recommendations 2022-15 through 2022-18, and refine the proposals to aid Congress in drafting legislation.</p>	<p>PENDING</p>
<p>No. 2022-20 The Archivist of the United States (AOTUS) should restore OGIS as a direct report to AOTUS.</p>	<p>REJECTED The Acting Archivist of the United States rejected this recommendation.</p>



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