



NATIONAL ARCHIVES *and* RECORDS ADMINISTRATION
8601 ADELPHI ROAD - OGIS | COLLEGE PARK, MD 20740-6001
www.archives.gov/ogis | ogis@nara.gov | o: 202.741.5770 | f: 202.741.5769 | t: 877.684.6448

July 9, 2021 – sent via email

Robert Hammond
perseverance2013@aol.com

Dear Mr. Hammond:

Thank you for the comments you have submitted over the last several months to the Freedom of Information Act (FOIA) Advisory Committee, the Chief FOIA Officers Council, and the Office of Government Information Services (OGIS) Annual Meeting. We have carefully reviewed all of your comments and understand that you have many ideas about improving the FOIA process based on your experiences as a requester.

Although the Committee, the Council and OGIS are not required to respond to public comments, we offer the following information about public participation and comments to help direct your comments in the future.

The best venue to share your FOIA experiences and suggestions for improvement is directly with OGIS at ogis@nara.gov. As the FOIA Ombudsman, we identify and surface issues and recommend opportunities for change. Each year, we handle thousands of requests for OGIS assistance which help us identify trends in the federal FOIA landscape. We use our extensive knowledge and experience to identify which recommendations are workable, and where to channel those recommendations to be most effective.

If you wish to submit public comments regarding ideas to improve the FOIA process, your best venue is the OGIS Annual Meeting. While the FOIA Advisory Committee and the Chief FOIA Officers Council welcome public comments, they are not the best venues for your ideas that do not relate specifically to topics being addressed by those entities.

OGIS Annual Open Meeting

- *Purpose:* To present on the “review and reports” by OGIS. 5 U.S.C. § 552(h)(6)
- *Written statements:* OGIS shall at its annual meeting allow “interested persons to appear and present oral or written statements” 5 U.S.C. § 552(h)(6)
- *Oral comments:* See above.

We use our discretion to decide whether and how to respond to public comments.

FOIA Advisory Committee

- *Purpose:* To study the federal FOIA landscape and recommend to the Archivist of the United States improvements to the administration of FOIA.
- *Membership:* No more than 20 FOIA experts from inside the government (FOIA professionals) and outside the government (requesters) appointed by the Archivist of the United States for two-year terms
- *Written statements:* Any member of the public is permitted to file a written statement with the Committee in accordance with federal regulations governing *all* federal advisory

committees. (41 CFR § 102–3.140(c)). There is no requirement for the Committee or OGIS to respond, either orally or in writing, to any person who submits comments although the Committee may respond at its discretion. There also is no requirement for the Committee to post submitted written comments to its website. OGIS's posting policy states that comments "should be substantive commentary on topics pertaining to the Committee's work."

- *Oral comments:* Any member of the public may speak to or otherwise address the Committee, in accordance with federal regulations governing *all* federal advisory committees and if agency guidelines permit. (41 CFR § 102–3.140(d)). Please note that the FOIA Advisory Committee By-Laws, Article 4 Subsection H, states that members of the public "may at the determination of the Chairperson, offer public comment during a meeting."

Regarding your request for time on the FOIA Advisory Committee's June 10, 2021, meeting agenda, any member of the public may suggest agenda items in accordance with Article 4, Subsection E of the By-Laws. However, the Committee's Designated Federal Officer, who approves the agenda in consultation with the Chairperson, is not obligated to respond to or approve agenda items suggested by members of the public.

Regarding your concern that when FOIA is discussed, "the Requester is the most important person in the room," please know that half of the current Committee members are FOIA requesters representing a range of interests in the requester community. The Federal Advisory Committee Act mandates that all federal advisory committees be balanced in the points of view represented by their members. The Committee's current term expires in June 2022 and should the Archivist of the United States renew the charter for a fifth term, you are welcome to nominate yourself to the Committee.

Chief FOIA Officers Council

- *Purpose:* To develop recommendations for increasing FOIA compliance and efficiency; disseminate information about agency experiences, ideas, best practices, and innovative approaches to FOIA; Identify, develop, and coordinate initiatives to increase transparency and compliance with FOIA; and promote the development and use of common performance measures for agency compliance with this section. (5 U.S.C. § 552(k)(5)(A))
- *Membership:* Deputy Director for Management of the Office of Management and Budget, the Directors of OGIS and the Office of Information Policy (OIP) at the Department of Justice, the agency Chief FOIA Officers, and any other officer or employee of the United States as designated by the co-chairs. (5 U.S.C. § 552(k)(2))
- *Written statements:* "Not less frequently than annually, the Council shall hold a meeting that shall be open to the public and permit interested persons to appear and present oral and written statements to the Council." (5 U.S.C. § 552(k)(6)(B)) There is no requirement for the Council to respond, either orally or in writing, to any person who submits comments, although the Council may respond at its discretion. There is no requirement for the Council to post submitted written comments to its website (although OGIS has done so in the past).
- *Oral comments:* See above.

Regarding your interest in participating in the Council's Technology Committee's working groups, please note that the groups consist of federal employees with expertise in FOIA and technology. Requesters are not part of the Council, the Technology Committee or the working

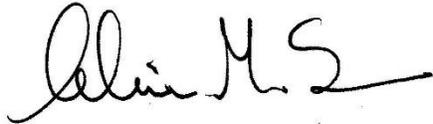
groups, although each strives to “consult on a regular basis with members of the public who make requests under” FOIA. 5 U.S.C. § 552(k)(5)(B).

We hope this letter clarifies the roles and public comments policies of the FOIA Advisory Committee, the Chief FOIA Officers Council and OGIS’s Annual Meeting in the federal FOIA landscape.

You have also referenced the status of recommendations from previous terms of the FOIA Advisory Committee. We invite you to visit our Committee recommendations dashboard, which we regularly update: <https://www.archives.gov/ogis/foia-advisory-committee/dashboard/> The dashboard describes each recommendation and actions taken to fulfill each, and provides links to reports, correspondence and other related material.

Finally, regarding your individual concerns that you have raised with OGIS, we are reviewing those matters and urge patience as we work to respond to them separately.

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

Cc: Bobak Talebian, Director, Office of Information Policy,
U.S. Department of Justice