

**DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

DRAFT MEETING MINUTES – AUGUST 5, 2021

The District of Columbia Board of Ethics and Government Accountability held a meeting on August 5, 2021 at 12:00 p.m. The meeting was held remotely via WebEx. The Board’s Chairperson Norma Hutcheson participated as well as Board Members Charles Nottingham, Felice Smith, and Melissa Tucker. These draft minutes must be approved by the Board. Full meeting minutes will be posted after the next Board meeting. Questions about the meeting may be directed to bega@dc.gov.

Members of the public were welcome to attend, and a recording of the meeting will be made available on open-dc.gov and BEGA’s YouTube channel.

https://youtu.be/inTx7Unih_w

- I. Call to Order**
- II. Ascertainment of Quorum**
- III. Adoption of the Agenda/Approval of Minutes**
- IV. Report by the Director of Open Government**

Good afternoon Chairperson Hutcheson and Members of the Board. I am Niquelle Allen, Director of Open Government. I am pleased to present this report on the activities of the Office of Open Government (“OOG”). Since the last Board meeting, the OOG has continued to fulfill its mission of ensuring that all persons receive full and complete information regarding the affairs of the District government and the actions of those who represent them.

A. Open Meetings Act (“OMA”) and Freedom of Information Act (“FOIA”) Advice

1. Advisory Opinions: On June 21, 2021, I issued “Resolution of Complaint” #OOG-0005-2021” (“ROC-0005”) and “Resolution of Complaint #OOG-0006-2021” (“ROC-0006”). ROC #OOG-0005, dismissed an OMA complaint filed against an ANC Chairperson. As the Board knows, D.C. Official Code § 2- 574(3)(F) excludes ANCs from the definition of public bodies and the OMA’s statutory meeting requirements. The complainant was informed that the Advisory Neighborhood Councils Act of 1975 (D.C. Official Code § 1-309.01 *et seq.*), governs ANC meetings, and to advise the Office of Advisory Neighborhood Commissions of the issue.

ROC #OOG-0006, dismissed an OMA complaint filed against the Board of Professional Counseling (“Board”), regarding the scheduling of a professional license matter for the Board to consider. The Board is a public body that is subject to the

OMA. However, the OMA does not regulate the scheduling of such matters. Copies of these advisory opinions are in the drobox for your review.

2. Formal FOIA Advice: The rules modifying FOIA requests have expired due to the reopening of some District of Columbia agencies and Mayor's Order 2021-096 ending the Public Health Emergency. BEGA's offices remain closed to the public due to COVID-19 and BEGA's staff continues in a full telework posture. So, if a FOIA request to BEGA requires BEGA's FOIA Officer or BEGA's staff to search for records in BEGA's physical offices, those FOIA requests will not be due until 45 days after BEGA's offices reopen. All other FOIA requests that BEGA receives are processed under the normal FOIA rules. FOIA requesters are given a letter detailing the changes to FOIA requirements and the impact of those changes on processing FOIA requests. The OOG will issue directives regarding the Mayor's Order ending the public health emergency and its effect on compliance with the OMA and FOIA. The information will be posted to our website and sent to the appropriate agency officials shortly.

3. Informal OMA/FOIA Advice: Since the last Board meeting, OOG responded informally, via e-mail or telephone, to requests for assistance as follows:

- The Office responded to 22 requests for OMA advice;
- The Office responded to 16 requests for FOIA advice; and
- The Office responded to 24 requests for technical assistance with open-dc.gov.

B. Training/ Outreach:

1. Mayor Bowser's Administration Full Cabinet Meeting: On July 9, 2020, I attended the Mayor's first in-person Cabinet meeting at the Washington Convention Center since the start of the COVID-19 Pandemic. The meeting was in advance of the Mayor welcoming employees back to in-person service on July 12, 2021. DC employees under the authority of the Mayor returned to the office on a maximum telework schedule (2 days telework and 3 days in office). At the meeting there was extensive discussion of the Mayor's return-to-work plans. Even though many we serve have returned to the workplace, OOG will continue to provide FOIA and OMA training to DC employees remotely.

2. Tipped Workers Coordinating Council ("TWCC") OMA Training: On July 15, 2021, the OOG and the Office of Government Ethics ("OGE") conducted a joint OMA and Ethics training for the TWCC. Attorney DeBerry presented the OMA portion of the training and OGE's General Counsel Rashee Raj presented the ethics portion of the training. The training was well received by the TWCC. Chief Counsel Barton and Attorneys Orji and Weil attended the training.

3. Live Online Privacy Training by the International Association of Privacy Professionals ("IAPP"): On July 12, July 14, July 19, and July 21, 2021, Attorney DeBerry attended IAPP's professional development course on privacy and data protection. The course provided an in-depth view of critical privacy laws and concepts relevant to U.S. organizations.

4. AINS FOIAXpress Training: On July 13, and July 14, 2021, Attorneys Orji and

Weil attended training on the use of FOIAXpress. FOIAXpress is an application used by District government public bodies to receive, manage, and respond to FOIA requests. Attorneys Orji and Weil found the program engaging, as it included several realistic simulations and gave them an informative look at the practical use of the FOIAXpress platform.

5. LexisNexis Training: On July 15, and July 22, 2021, Attorney Orji attended the first and second sessions of a three-part legal research training hosted by LexisNexis. The training is designed to demonstrate effective utilization of LexisNexis when conducting legal research.

6. “Digging into DC: School Open Records” Training: On July 20, 2021, the OOG and the D.C. Open Government Coalition cohosted a training on how to obtain information from the District Public School System and the D.C. Public Charter School Board. I was a panelist and offered advice on FOIA. This was the first in a series of free open government trainings that will continue through the fall. The focus of future trainings will include how to locate and obtain information from a criminal justice, social services, and government and state agencies. OOG’s legal staff attended the training.

7. Office of Unified Communications (OUC) FOIA Training: On July 23, 2021, Chief Counsel Barton conducted a FOIA training for the OUC. This was OOG’s basic FOIA training course and the training was well received.

8. 2020 Supreme Court of the United States (“SCOTUS”): On July 23, 2021, Attorney Weil attended a seminar on the review of the 2020 term for the SCOTUS. The seminar was conducted through the George Mason University School of Law. The panelists summarized impactful rulings by the court in 2020.

9. Brown Bag Seminar: On July 26, 2021, I, along with Chief Counsel Barton, participated in the OGE’s monthly Brown Bag Ethic’s Seminar. Chief Counsel Barton facilitated an interactive presentation of OMA Best Practices. The event was well attended, and we responded to several insightful questions concerning the OMA. Attorney DeBerry also attended the seminar.

10. Opengovist Biannual Newsletter: OOG released its Biannual Newsletter “The Opengovist” that reports on the OOG’s activities and newsworthy events in the areas of open government. The July 26, 2021 newsletter discusses the expiration of the D.C. FOIA Tolling Legislation; an Advisory Opinion, addressing the District of Columbia Public Schools’ compliance with the proactive disclosure provisions of D.C. FOIA; the Terris, Pravlik & Millian (“TPM”) lawsuit which brought forth a D.C. FOIA case against the District to turn over budget documents; resolution of several OMA complaints and OMA and FOIA trainings for the Public Charter School Board of Trustees and Advisory Neighborhood Commissioners. The Opengovist also discusses how Chief Judge Beryl A. Howell’s Order and federal FOIA were used to obtain video evidence and documents of the January 6, 2021, attack on the U.S. Capitol. The Biannual newsletter also welcomes OOG’s two new attorneys and discuss a number of open government related trainings, forums and events presented or attended by the OOG legal staff. The July 26, 2021 Opengovist newsletter was released on July 26,

2021, along with the following back issues: January 2019, February 2020, July 2020, and December 2020. All of the issues have been posted to OOG's website.

C. Litigation and Legislative Update:

1. Open Meetings Act Enforcement - DC PCSB Conciliation Meeting: On July 9, 2021, pursuant to 3 DCMR § 10404, I facilitated a conciliation meeting to resolve OMA Complaint, #OOG, 2021-0001-M. The complaint was filed on April 5, 2021 against the DC PCSB. The Complainant voiced his concerns directly to the DC PCSB representative. The parties were able to arrive at an acceptable resolution of the complaint. Chief Counsel Barton, Trial Attorney Orji, and Attorney DeBerry attended the meeting.

2. Litigation: OOG is monitoring FOIA-related cases in D.C. Superior Court and the U.S. Court of Appeals for the D.C. Circuit. The agency is not a party to any of the lawsuits. I am providing this information for the Board's awareness of litigation that may impact the operation and interpretation of D.C. FOIA law.

a. TPM lawsuit re: preliminary budget requests: On July 13, 2020. TPM sued the District under D.C. FOIA, alleging that the District failed to produce and post online various budget-related documents related to the Office of the State Superintendent of Education ("OSSE") and District of Columbia Public Schools (Case No. 2020 CA 003087 B).

TPM moved, and the District cross-moved, for summary judgment. A status hearing had been scheduled for July 23, 2021, but on the morning of July 23, Judge Pasichow vacated that hearing and ruled in TPM's favor. Judge Pasichow found and reasoned that: (1) the requested budget-request-related documents fell within the scope of those required to be affirmatively published; (2) the Executive Office of the Mayor's and OSSE's responses to TPM were inadequate or absent; (3) TPM had standing to sue because its inability to exercise its "right to inspect a public record" (emphasis omitted) is itself a justiciable injury; (4) the District was compelled to obey express disclosure provisions within D.C. FOIA (the court disagreed with the District's argument that a requirement to comply with "other law" means "law outside of D.C. FOIA"); (5) separation of powers applies "when powers are reserved for one branch"—here, the power of the budget is inherently shared between two branches; and (6) the court was not persuaded to recognize an executive-communication privilege, nor that it would even apply, because, e.g., the budget requests were formulated "*after* budget deliberations" (emphasis added) and are submitted to the Office of Planning and Budget, not the Mayor or her immediate staff/advisers.

Accordingly, the court ordered, the District must produce the budget-related documents to TPM and publish them on its website. The District was required to comply on or before August 5, 2021. On August 3, 2021, the District submitted *Defendant's Partial Consent Motion for Administrative Stay and Stay of Execution of Judgment Pending Appeal*. The District moved to stay the execution of the Court's July 23, 2021 Order entered in this case requiring the District to produce to plaintiff and publish (online) preliminary budget-related documents from the Office of the State Superintendent of Education (OSSE) and District of Columbia Public Schools (DCPS), on or before August 5, 2021. The District also moved for an administrative

stay until seven days after the Court decides this stay motion to allow the District to request a stay from the D.C. Court of Appeals, if necessary. The District is considering an appeal because it claims the court's order improperly limits the applicability of the D.C. FOIA's deliberative process privilege to the documents requested, misapplies separation of powers law, and misunderstands the scope of the executive communications privilege. The District argued that without a stay, the District will necessarily face irreparable harm because once it produces and publishes the documents, it can no longer invoke any privilege to protect the documents from disclosure. The District further stated the public interest supports the protection of deliberative governmental communications, and plaintiff will face no harm from a stay pending appeal.

On August 4, 2021, TPM responded. TPM consented to a stay of the District's injunctive obligations under the July 23, 2021 Order since the injunctive obligations flow directly from the legal issues that will be addressed by the Court of Appeals if the District appeals. However, TPM did not fully consent to the District's request because the District has not yet decided if it will appeal, and there is no need for a stay if the District does not appeal. Accordingly, TPM explained to the District that it would consent to its stay request under the condition that if the District did not appeal, the requested stay would terminate seven days after the time for noticing an appeal has run. TPM requested that, if the Court grants a stay, the order must include a provision terminating the stay if the District does not appeal.

b. ACLU lawsuit re: stop-and-frisk: On February 16, 2021, the American Civil Liberties Union of the District of Columbia sued the District, seeking records concerning stop-and-frisks by the Metropolitan Police Department (Case No. 2021 CA 000452 B).

A status hearing was scheduled for July 23, 2021, but the court granted a stay of litigation by consent of both parties. The parties' July 13, 2021, consent motion indicated that they are continuing settlement discussions with respect to attorney's fees, the only remaining issue of their negotiation. A new status hearing is set for October 1, 2021.

c. Reporters Committee for Freedom of the Press & Associated Press (AP) lawsuit re: "foreseeable harm" analysis: On July 2, 2021, two media plaintiffs sued the Federal Bureau of Investigation ("FBI") and the United States Department of Justice over the government's withholding (under the federal deliberative-process exemption) of certain public records. (Case No. 20-5091, slip opinion at 3, 9, 10 (D.C. Cir. July 2, 2021).) The underlying FOIA-requests were broad and concerned the FBI's use of fake news-articles and news-websites to lure suspects into clicking on spurious links and thereby downloading surveillance software and revealing their locations to investigators. (*See id.* at 4, 5, 7.)

The media plaintiff-appellants' argument turned on, *inter alia*, the "foreseeable harm" subclause that was added to the federal FOIA in 2016. That new language provides that, for agencies subject to federal FOIA, the mere fact that a record technically falls within an exemption is not a sufficient ground for withholding records from a requester. The language provides that "[a]n agency shall . . . withhold information under [the federal FOIA] only if . . . the agency reasonably foresees that

disclosure would harm an interest protected by an exemption” 5 U.S.C. § 552(a)(8)(A)(i)(I). (Note that the “foreseeable harm” rule does not have a counterpart in D.C. FOIA; nevertheless, this case has the potential for persuasive, though not binding, interpretive value in the future.)

After the district court granted summary judgment to the government parties, the media organizations appealed.

In its opinion, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit affirmed in part, reversed in part, and dismissed in part. The panel agreed with the FBI that certain internal deliberative documents, concerning the FBI’s response “to media and legislative pressure to” change undercover tactics, were properly withheld under federal Exemption (5). (Case No. 20–5091, slip opinion at 13–26, 33.) But, with respect to the other requested documents (also withheld under federal Exemption (5) (the FBI’s “Factual Accuracy Comments” on the Inspector General’s draft report; drafts of PowerPoint slides allegedly concerning undercover operations; portions of an Inspector General cover memo, and emails among FBI personnel discussing policy changes in the approval process for undercover investigations)), the panel was unpersuaded by the FBI’s assertions of harm. (*Id.* at 26–33.) The opinion by Judge Millett described the FBI’s declarations as “scanty” and “wholly generalized and conclusory, just mouthing the generic rationale for the deliberative process privilege itself.” (*Id.* at 29.)

The Reporters Committee for Freedom of the Press regards the decision as “a powerful articulation of what the foreseeable harm standard requires. By affirming that ‘boilerplate, unparticularized, and hypothesized assertion of harm’ are insufficient, . . . the . . . decision puts to bed the argument — repeatedly made by the Justice Department — that the foreseeable harm provision did not significantly alter an agency’s obligations under FOIA.” Adam A. Marshall, *D.C. Circuit: FOIA’s “Foreseeable Harm” Standard Has Teeth*, rcfp.org/dc-circuit-foreseeable-harm-ruling (July 26, 2021).

The OOG will continue to monitor these matters.

D. Administrative Matters:

1. Return to the Workplace: As an independent agency, BEGA has elected to remain in full telework status due to the spread of the Delta variant and coronavirus reinfections among vaccinated persons. BEGA remains in full situational telework status until further notice and will continue to offer its services remotely. BEGA employees may provide in-office service with the permission of either Director. We are currently considering future plans for employees to return to the Barry building, as the pandemic eases, hopefully sometime in FY22.

On July 26, 2021, OOG and OGE held a joint staff meeting to address BEGA’s return to the workplace. BEGA’s leadership heard from BEGA’s staff regarding concerns about returning to the workplace and will address those concerns in any plan to move from full telework to in-office work.

2. BEGA Hearing Room: On July 30, 2021, I met with an A/V contractor regarding the equipment in the BEGA Hearing room to ensure it is operable, since a public body

inquired about using the facility to hold a hearing. The A/V system is currently inoperable because the controller is inoperable. The equipment that is essentially the brains of the hearing room is at the end-of-life cycle and must be replaced. The replacement cost and labor are within the FY21 budget and we will be able to complete this minor upgrade prior to the end of the fiscal year. I met with OCTO to have the video teleconferencing unit that we purchased in FY20 installed and integrated as part of this process. You may recall we put the upgrade of the hearing room on hold last fiscal year on hold due to the pandemic.

4. BEGA’s New Office Space: Acting Director Cooks and I met with the Department of General Services (“DGS”) on August 3, 2021, regarding moving to a new facility to meet our space needs. BEGA will remain in its current space for 12 to 15 months while DGS searches for a suitable space for the agency and builds the space to meet the agency’s needs. The Executive has indicated that upon the conclusion of this search and build out, BEGA will be provided with the funds it requires to complete the relocation in the FY23 budget. BEGA will consider a teleworking arrangement for staff while DGS completes this process because our current space is insufficient for our current level of staff. Acting Director Cooks also will provide further details on the DGS meeting and facility search in her report.

5. FY22 Budget Enhancements: The D.C. Council has indicated that it will provide BEGA with its budget enhancements regarding the Office of Open Government’s operations. The enhancements include funding for a Paralegal Specialist position and Training Portal for Parliamentary Procedure Training.

This concludes the Office of Open Government’s August 5, 2021 report.

V. Report by the Director of Government Ethics

Good afternoon Chairperson Hutcheson and Members of the Board. My name is Ashley Cooks, I am the Acting Director of Government Ethics. I am pleased to present this report on the activities of the Office of Government Ethics (OGE).

- A. Update on Status of OGE Operations: The information reported today regarding OGE’s cases will not reflect any status changes that may will occur as a result of actions taken by the Board during today’s meeting.

OPEN INVESTIGATIONS BY STATUS	
Open	53
Open - Negotiations	0
Open - Show Cause Hearing	0
Grand Total	53

OPEN "UNDOCKETED MATTERS"	
Grand Total	13

PENDING/STAYED INVESTIGATIONS BY STATUS	
Closed - Pending Collection	28
Closed - Pending DC Superior Court Case	1
Stayed - OAG False Claims Act Case	4
Stayed - OIG Investigation	9
Stayed - US District Court Case	1
Grand Total	43

REGULATORY MATTERS BY STATUS	
Closed - Pending Collection	24
Open	0
Grand Total	24

	Current	Last month	June
Investigations Currently	53	57	59
Investigations Stayed	14	13	13

The number of open preliminary and formal investigations includes 8 new matters opened since the Board last met. The investigative team resolved 12 preliminary investigations since the Board last met.

B. Trainings/Outreach:

1. Professional Development Trainings Attended by staff:

During the month of July, OGE staff took CMTS User Refresher training and OGE attorneys completed a Lexis Nexis Update training.

Investigator Bradley attended Zoom Practices for Small Business which was developed to allow the participants to get familiar with the Zoom functionality and its available resources. The course covered how to schedule meetings, record, set up host functions, manage participants, invite attendees, and it explored the tool bar so that participants could familiarize themselves with features, such as the mute, chat and share screen buttons.

Investigator Bradley also completed Unpacking Bias Training, which was offered by DCHR via WebEx. The training was designed to help participants examine the current components of personal bias, stereotypes and racial bias, and its impact within the workplace and in the communities. The training discussed bias and described it as prejudice, partiality, partisanship, favoritism, and unfairness, and provided for an open discussion and feedback amongst the attendees. The overall objective was to intentionally work on the culture of the workplace in order to create a space for all to perform at a level

that meets and exceeds expectations.

Auditor Tujuba completed the following trainings:

Communicating with Confidence which focused on how to communicate with staff and supervisors with confidence and the effects of verbal and non-verbal communication.

Forging Ahead with Perseverance and Resilience which provided information on dealing with waves of changes in the workplace.

Rapport Building Customer Service which provided information on how to create good relationships with customers, such as trust, friendship, and affinity.

Accessing and Managing Files which focused on what types of files could be accessed and stored and how to store them in such a way that facilitates their use. Effectively the course focused on the way we could structure files to ensure we access them properly when needed.

Becoming a Great Listener which provided information on how not listening would greatly affect the way we communicate with each other at work. It also focused on how the effect of not listening is twofold and damages morale of employees and waste resources.

2. Conducted by staff:

Since the last Board meeting, OGE attorneys conducted 4 total ethics trainings, which included: 2 general ethics trainings, one Ethics and Open Meetings training for the Tipped Workers Council and an Ethics Counselor Virtual Brown Bag Discussion. The Ethics Counselor virtual brown bag on Monday, July 26th was well attended. OOG Director Niquelle Allen and Chief Counsel Johnnie Barton presented information on best practices for complying with the Open Meetings Act. Ethics Counselors were extremely engaged in the discussion and we received positive feedback. Ethics Counselors expressed interest in OOG providing a FOIA presentation soon.

3. Learning Management System:

OGE has identified a vendor to create and host its ethics learning management system ("LMS"). The LMS will assist BEGA with training the District's 34,000 plus employees and public officials by providing remote, on-demand ethics trainings that are specifically tailored to the District's Code of Conduct. It will be the central online location for OGE's ethics training resources and materials and will provide data analytics, course completion, and tracking information. OGE is working with the Office of Contracting and Procurement to purchase the LMS this fiscal year.

4. Ms. Ethics Videos:

We are in the process of creating two, new Ms. Ethics videos with Pendragwn Productions. Pendragwn created the original Ms. Ethics video and the subsequent Ask Ms. Ethics videos. These two videos will focus on financial disclosure nuances, how and when to report an ethics violation, and ethical conduct in a virtual world. We plan release the video this fiscal year or early fiscal year 2022.

C. Advisory Opinions/Advice:

1. Informal Advice: approximately 47, which is 7 less than the 54 reported at the July meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems. OGE has not issued any advisory opinions since the last meeting but plans to issue an opinion on Seeking and Negotiating for Employment next month.

D. Legislation Updates:

1. On June 8, 2021, Council member Allen introduced the Pro Bono Legal Representation Clarification Amendment Act of 2021, as an amendment to Section 223 of the Ethics Act, which would add a new subsection that will allow employees to represent persons of limited income, in affiliation with a non-profit organization, before District courts and federal courts, and District and federal agencies. The Committee on the Judiciary & Public Safety will hold a public hearing on the bill on October 27th. I plan to submit written testimony in support of the bill. A copy of the bill was placed in the drop box for your review.

E. OGE Administrative Matters:

1. OGE Staffing:

As stated at the last Board meeting, the Senior Attorney Advisor vacancy has been filled by Lynn Tran, who will start on August 23rd. We are in the process of posting vacancy announcements for an Attorney Advisor and Administrative Officer.

2. Reporting:

As discussed at the last Board meeting, OGE has published a finalized quarterly complaint report for Quarter 2 of FY 2021. We plan to publish quarterly complaint reports for Quarter 1 and 3 soon.

3. Budget:

The agency's budget hearing was June 16, 2021 at which Chairperson

Hutcheson, Director Allen, and I testified. Council member Nadeau included all BEGA's budget enhancement requests (except the request for the new office lease) in the Human Services Committee Budget Report. On this past Tuesday, the Council conducted its last vote on the Local Budget Act, which approved BEGA's budget allocations without any changes.

4. Relocation/New Office Space:

The City Administrator has approved for Department of General Services (DGS) to issue a Request for Space (RFS) on BEGA's behalf. The RFS is a solicitation for applications from commercial landlords who have vacant office space that meets our needs. On this past Tuesday, Director Allen and I met with DGS's Portfolio Management Division to assess our current office space and to discuss expectations for future office space.

F. Financial Disclosure Statement:

In July 2021, the Financial Disclosure Filing season ended and enforcement activities began. While the official end of filing was June 15, many filers sought extensions to file their CY 2020 Financial Disclosure Statements through the month of July. As of July 28th, 3,618 public filers filed using the e-filing system. For enforcement, the FDS staff produced a list of 148 public filers who did not meet the deadline or who have not filed despite receiving notices and reminders to file. A garnishment memorandum containing the names of those filers has been submitted to the Office of Pay and Retirement for payroll fine deduction.

In accordance with its FDS reporting obligation, OGE has produced three lists for the DC Register: a Filers List; Late and Not Filed List; and an Extensions List. These lists have been uploaded to the DC Register and will be published on August 6, 2021. The Late and Not Filed list does not include those who sought help via support tickets or directly contacted the FDS Team for assistance.

FDS Staff continues to review Financial Disclosure Review Reports from the agencies to identify confidential filers for enforcement activities. Since the deadline, the FDS team received the names of approximately of 30 filers who were not included in their agencies' initial lists received in March. Of note, one agency did not respond to BEGA requests until June 24th and the filers were noticed on June 25. However, the agency's filers all filed within the allotted time. The FDS Team continues to work with filers and Ethics Counselors to achieve compliance.

Lastly, the FDS Team met with OCTO on July 22 to discuss fixes and upgrades to the e-filing system. The FDS Team produced a list of items that were supposed to be originally included in the system, as well as items that would make reporting and maintenance easier. We are awaiting OCTO's responses.

G. Lobbying Registration and Reporting (LRR) System

Calendar year 2021 2nd Quarter Lobbyist Activity Reports were due July 15. A reminder notice was sent on June 29, 2021 to Lobbyists and Clients. As of July 28, BEGA received 458 activity reports and 19 Registrations (11 New, 5 Renewals, and 3 Terminations). No major issues were noted, but 13 Support Tickets were forwarded to OCTO for review. We are in the process of sending out Lobbyist Registration and Activity Report Fine Letters, totaling \$14,700.

Thank you. This concludes the Office of Government Ethics' August 5, 2021 report.

VI. Acknowledge of Public Comment – if received:

Linda Cohen

Subject: Request for Comment & Public Commentary

It is highly peculiar that the government agency in charge of government transparency and ethics appears to be intentionally withholding information from the public, such as the whistleblower complaint against the agency which alleges that the agency and its directors are under criminal investigation.

Thanks. I look forward to hearing from you soon.

- Linda

Linda Cohen

Re: Request for Comment & Public Commentary

You failed to acknowledge or respond to my previous email of two weeks ago.

I would like to know what the board is doing about the criminal investigation of the agency.

Why have you failed to disclose the information?

Will you continue to blame the lack of employees at the agency now that the agency is under criminal investigation and its directors may be charged?

The public is concerned about the lack of transparency and honesty at your agency. What are you going to do about it?

Why do board members take trips at the expense of taxpayers to learn about government transparency when they fail to check the agency's own information online?

Who is the employee responsible for the computer fraud?

Thanks.

VII. Executive Session (nonpublic)

VIII. Resumption of Public Meeting

IX. Adjournment

The Board will meet again on September 2, 2021.

UNAPPROVED