**COUNCIL OF THE DISTRICT OF COLUMBIA**

**COMMITTEE ON THE JUDICARY**

**COUNCIL OF THE DISTRICT OF COLUMBIA**

**PUBLIC HEARINGS**

**AGENCY PERFORMANCE OVERSIGHT HEARINGS**

**FISCAL YEAR 2014-2015**

**Testimony of Traci L. Hughes**

**Director, Office of Open Government**

**Board of Ethics and Government Accountability**

**Thursday, February 12, 2015**

**10:00 A.M.**

**1350 Pennsylvania Avenue NW**

**Room 500**

**Washington, D.C. 20004**

Good morning, Chairman McDuffie and members of the Committee. I am Traci Hughes, Director of the Office of Open Government. – an independent office under the Board of Ethics and Government Accountability. I am pleased to be here today to update the Committee and the public on the operations of the Office of Open Government.

As you are aware, the Office of Open Government ensures compliance with the Open Meetings Act, and the Freedom of Information Act. Also, the office recommends policies and procedures to agencies and the Executive Office of the Mayor with the aim of promoting greater transparency and improving means of access to government records. I am pleased to report to the committee that in Fiscal Year 2014, the Office made significant advancements toward fulfilling its statutory mandates and its mission to ensure government operations at every level are transparent, open to the public, and promote civic engagement.

Each year BEGA issues a Best Practices Report, and for the sake of efficiency, the board also includes in the report the recommendations of the Office of Open Government. The report, issued early in Fiscal Year 2014, called on the Executive Office of the Mayor to create a citywide comprehensive open data and transparency policy, which includes a comprehensive set of data sets to be made available on open source formats. Additionally, the Office of Open Government advised that the Executive seek input from the public on data that is made available.

To its credit, the Mayor’s Office was attentive to not only my assessment of the need to revamp the District’s Track DC and data warehouse, but to create a central open government portal that will allow the public ease of access to government information. All of my recommendations concerning open data and improved transparency are memorialized in what is now Mayor’s Order 2014-170, Transparency, Open Government and Open Data Directive.

Issued on July 21st, the directive called for agencies to submit open government and transparency plans, and to publish government information online under Open Government tabs on agency sites, pursuant to the proactive and mandatory compliance requirements under the Freedom of Information Act. It also directs agencies to make data available online, and in formats that are machine readable, easily retrieved, downloaded, sorted and searched.

Certainly not least of all, the directive created the Chief Data Officer position under the Office of the Chief Technology Officer to put policies and procedures in place to assist agencies in identifying and maintaining data sets. This was also a best practices recommendation by the Office of Open Government.

In October, the District announced that it had re-launched the District’s data warehouse at opendata.dc.gov to include 237 new datasets, and re-designed track.dc.gov where residents may track agency performance. Opendata.dc.gov now includes approximately 600 datasets. The Mayor also announced the creation of the Open Government Advisory Group, whose purpose is to evaluate the District’s progress toward meeting the requirements of the Directive. The group, chaired the then Mayor’s general counsel, and co-chaired by myself, is made up of 15 members – only two of whom are in the private sector, representing Code for DC and the Urban Institute. All others are representative of District Government agencies.

Since the group was stood up in late October, we were only able to meet twice before the end of the year. The group did adopt By-Laws, and reviewed the open government reports submitted by agencies in the fall. The group determined, however, that to accurately assess an agency’s status on open government and transparency, a more objective matrix must be put in place. For example, agencies such as the DC Public Schools and the Department of Health are more data driven than BEGA and the DC Office of Cable Television. It’s much like comparing apples to oranges.

I have not been informed by the Bowser Administration if the directive will be maintained, nor whether the advisory group will remain in place.

As part of the Mayor’s announcement on open government initiatives, the previous administration also put in place at the recommendation of the Office of Open Government a central FOIA processing system. FOIAXpress is now being utilized by more than 60 government agencies. However, there remains a disconnect between the system itself and annual reporting measures. Annual reporting is currently handled by the Office of the Secretary. Since the Office of Open Government is statutorily required to provide training, and offer advice to FOIA officers on compliance with the measure, I continue to strongly urge the Executive to allow the Office of Open Government the ability to administer yearly reporting to the Council.

FOIAXpress does have a reporting capability that may be modified to mirror local FOIA reporting measures. But because the system was implemented late in Fiscal Year 2014, agencies with licenses compiled numbers from FOIAXpress, and from whatever system FOIA officers were using prior to the centralized system. I have also recommended that those agencies which are not licensed to process requests in FOIAXpress, be given the option to share concurrent licensing. This will be especially cost effective for those agencies which process very few FOIA requests every year, to double-up, or even triple-up on one license. Of course, the success of the system depends on agency use of FOIAXpress. All agencies have been informed that all requests must be processed in FOIAXpress, but use of the system has not been made mandatory by any rulemaking or statute.

In tandem with the Executive’s efforts, the Office of Open Government continues to make technology and civic engagement tools a primary focus in support of overall government transparency.

In January, the Office of Open Government launched its own website, which continues to make available the option for boards and commissions to post meeting dates, agendas, audio files and administrative materials on the central calendar. The calendar remains the only central portal for the public to access public body meeting dates. It is not mandatory for public bodies to post to the central calendar. Approximately 50 public bodies are consistently posting to the calendar.

 The listing of boards and commissions on the site also includes corresponding enabling statutes. The statutes are linked through DC Decoded. The Office of Open Government has partnered with the Open Gov Foundation, joining a national movement, to “open up” the regulations and statutes. DC Decoded allows viewers the ability to better understand the laws under which they are governed by providing in-line definitions and freeing up regulations so that they may be cut and pasted without risk of copyright infringement. Much like what is being done on the legislative side with the District’s statutes.

As director of the Office of Open Government, I’ve joined Free Law Founders – a national coalition of citizens, technologists and state and local lawmakers (including, Councilmembers Grosso and Allen; former Councilmember Tommy Wells; and General Counsel to the Council, Dave Zvenyach); dedicated to improving how we access, produce and maintain our laws and legal codes. The group is actively engaged on best practices and tools to increase and improve civic engagement from within and without all levels of government.

Engagement also requires the continued training of government officials on compliance with the Freedom of Information Act and the Open Meetings Act. In Fiscal years 2014 and 2015 to date, I have conducted 47 and 110 trainings respectively. Although yearly FOIA training is mandatory, several agencies are failing to comply. This will require the reaffirmation of the Mayor to all cabinet members that FOIA training is a necessary part of the job function of not only agency FOIA officers, but any staff members who assist in processing FOIA requests.

In an effort to boost Open Meetings Act training numbers, it is now mandatory that boards and commissions be trained by the Office of Open Government on the Open Meetings Act. This is made so with the adoption of a rulemaking on January 26, 2015 mandating that all public bodies including the Council are trained on the requirements of the Open Meetings Act. The rulemaking is codified under Chapter 104, of the DC Municipal Regulations. It clarifies the authority of the Office to investigate complaints and issue binding advisory opinions to public bodies regarding compliance with the OMA. To date, no complaints have been filed with the Office of Open Government.

Outreach by my office does not end with the training of District personnel and members of public bodies. I routinely take calls and answer emails from residents seeking guidance on filing FOIA requests and guidance on the procedural requirements of the Open Meetings Act. Organizations such as the Open Government Coalition, the Urban Institute, Code for DC, and the Center for Global Integrity via the Open Gov Hub have been instrumental in allowing me to reach a broad audience of members of the local, national and international community of who are dedicated to innovations in transparency and fostering a more inclusive government.

In Fiscal Year 2014, I delivered two keynote speeches: at the Open Government Summit during National Sunshine week, and at the AINS User Conference for FOIAXpress users nationwide. I have also met with delegations from Kenya, and the West Bank to discuss open government and transparency best practices, and trends in civic engagement.

I proud of the accomplishments the office has made in the less than two years that it has been in existence. But I fully appreciate that there is so much more that can and must be done to make the District Government a more transparent one. I look forward to continuing to work with the Council and the Executive Office of the Mayor to solidify, whether in the form of legislation or rulemakings, transparency policies; and to amend existing statues to better balance the interests of government with the public’s right to know.

Thank you for the opportunity to testify. I am happy to answer any questions from the Committee.