

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HUMAN SERVICES**



COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARING

**AGENCY BUDGET OVERSIGHT HEARING
FISCAL YEAR 2023**

**Testimony of Niquelle M. Allen
Director of Open Government
Board of Ethics and Government Accountability**

**Wednesday, April 6, 2022
12:00 p.m.
Virtual Meeting Platform
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Good afternoon, Chairperson Nadeau and members of the Committee on Human Services. I am Niquelle Allen, Director of Open Government. As Chairperson Hutcherson indicated, I lead the Office of Open Government (“OOG”), which is an office within the Board of Ethics and Government Accountability (BEGA) that enforces the Open Meetings Act (OMA) and provides guidance on the implementation of the District of Columbia Freedom of Information Act (“D.C. FOIA” or “FOIA”). I am pleased to discuss BEGA’s budget needs for OOG during Fiscal Year (FY) 2023.

As Chairperson Hutcheson mentioned in her testimony, the Mayor has proposed a 3.0% increase in BEGA’s operating budget, which included \$65,000 to reclassify positions in OOG to reflect the responsibilities of OOG’s staff more appropriately and to allow BEGA greater flexibility in retaining our talented staff by providing competitive salaries and benefits. I am also very pleased that the Mayor has proposed funding through the Department of General Services (“DGS”) to allow the agency to relocate to a leased office facility. We greatly appreciate your support during the FY22 budget process that facilitated this outcome. The new facility that DGS will have the funds to lease on BEGA’s behalf in FY23, will provide suitable square footage to house the agency's operations, both open government and ethics, together in the same facility and on the same floor. The leased facility will also have suitable and adequate square footage to enable BEGA’s staff to carry out the agency's mission more effectively by remaining open and welcoming to the public because our facilities will have adequate space. We have also planned for enhanced meeting facilities in the new facility. We look forward to our five-member Board and other District Boards and Commissions using the new facility for in-person, remote, and hybrid meetings, seminars, and training sessions.

The modest increase the Mayor provided to BEGA’s budget that will benefit OOG is appreciated and the increase to DGS’ budget that will enable BEGA to occupy a suitable office facility was greatly needed and I am grateful BEGA will soon be able to occupy suitable office space. However, the agency requires an additional enhancement related to OOG that I will take this opportunity to discuss. I will also briefly discuss the need to fund the digitization of the District of Columbia government’s (the “District”) records for all agencies to modernize record-keeping and retention in the District, which is related to FOIA.

First, BEGA requested \$65,000 to fund a legal fellowship for OOG. Here is why

this request is important to fund in FY23. BEGA's proposed legal fellowships are term-limited opportunities (one to two years) designed to give recent law school graduates or junior attorneys experience in public interest law. OOG has a niche legal practice area (D.C. FOIA) that is of great interest to the public. Of particular interest to BEGA is training lawyers to provide them with specialized knowledge in public records law. The fellowship would also provide an opportunity for BEGA to gain information on impact of the agency's mission on social justice issues in the District. The legal fellow will also assist OOG's attorneys and its paralegal with drafting advisory opinions and investigating allegations of OMA violations. The addition of new legal talent to the OOG will have an immediate positive impact. For these reasons, we hope that you will consider funding this legal fellowship in FY23.

Second, I would like to discuss the District's need to fund record digitization. OOG consistently receives FOIA complaints about District agencies' records being unavailable in digital or electronic format. This concerns me because D.C. FOIA was amended in 2001, to require that many commonly requested records be made publicly available on the Internet or by other electronic means. Approximately 21 years have elapsed since enactment of that amendment to D.C. FOIA and the District has not fully complied with the requirement. The primary reason the agencies I query about the issue provide is funding for record digitation, website modernization (or upgrades), and digital storage. The Covid-19 pandemic exposed the extent to which the District requires this record digitization and modernization to function when office facilities are closed, and physical records are inaccessible. Therefore, I suggest that the D.C. Council consider it a priority to include funding for electronic archiving and record digitation in the overall FY23 budget process.

In summary, OOG appreciates the Mayor's effort to present a balanced budget and the budget enhancement she provided to BEGA for OOG's staff. However, the legal fellowship is also an important addition to OOG that will enhance the execution of our mission and I respectfully request that you consider adding funds BEGA's FY23 budget for the OOG legal fellow. The D.C. Council has required the government to digitize its records since 2001 through FOIA law. Many agencies claim they are not in compliance with this requirement due to lack of funding. Therefore, I strongly advise the D.C. Council to provide the funding required to facilitate the modernization and digitization of the District's records.

Thank you for the opportunity to testify today. I am happy to answer any questions you or the Committee members may have.