

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



February 22, 2023

Honorable Anita Bonds  
Committee on Executive Administration and Labor  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

**RE: Board of Ethics and Government Accountability's Responses  
to the Performance Oversight Questions on Fiscal Year 2022-2023**

Dear Councilmember Bonds:

On behalf of the Board of Ethics and Government Accountability (BEGA), we thank you for this opportunity to provide responses to the Performance Oversight Questions contained in the Committee on Executive Administration and Labor's correspondence to BEGA's Director of Open Government, Niquelle Allen, dated February 10, 2023. The members of the Board and the Directors of Government Ethics and Open Government look forward to providing testimony and answering these and any other questions you or the members of the Committee might have at the Public Hearing scheduled on March 1, 2023. Please find the answers to the questions posed in the February 10, 2023 correspondence attached to this cover letter. If you have any additional questions or require more information, please let us know.

Sincerely,

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Niquelle M. Allen  
Director, Office of Open Government  
Board of Ethics and Government Accountability

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Ashley Cooks  
Director, Office of Government Ethics  
Board of Ethics and Government Accountability

*Enclosures*

1. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel, and note the date that the information was collected on the chart.

**See EXHIBIT 1 - BEGA Organizational Chart**

- a. Please provide an explanation of the roles and responsibilities of each division and subdivision.

**Response:** The Board of Ethics and Government Accountability (BEGA) is an independent agency of D.C. government. BEGA is led by a five-member Board that is responsible for appointing a Director of Government Ethics to manage the Office of Government Ethics (OGE) and a Director of Open Government to manage the Office of Open Government (OOG), respectively, and to carry out BEGA's statutory mission. The Directors report to the Board. The Board is a quasi-judicial public body that is responsible for enforcing the District of Columbia's government ethics and open meetings laws and advocating for increased government transparency.

BEGA's two offices – OGE and OOG - operate independently from a subject matter standpoint, but share administrative resources. Descriptions of the offices are as follows.

OGE: The Office of Government Ethics administers and enforces the District of Columbia's Code of Conduct. More specifically, OGE investigates and adjudicates alleged violations of the Code of Conduct; provides ethics advice and guidance to District employees and public officials; regularly provides mandatory ethics training; issues rules and regulations governing the ethical conduct of employees and public officials; oversees lobbyist registration and activity reporting; manages and oversees the financial disclosure filing requirements for District employees and officials; drafts an annual ethics Best Practices Report; and provides for the anonymous and confidential receipt of information related to violations of the Code of Conduct or other information with regard to the administration or enforcement of the Code. There are no subdivisions under OGE.

OOG: The Office of Open Government (OOG) is a separate office under the Board of Ethics and Government Accountability. OOG's statutory charge is to advise agencies on the implementation of the D.C. Freedom of Information Act (FOIA). OOG provides education and advisory services to DC agencies and the public in an effort to ensure compliance with the requirements of FOIA. It also issues formal and informal advice to agencies on compliance with FOIA. OOG's role regarding the Open Meetings Act is to enforce the provisions of the OMA and to advise and educate public bodies regarding the OMA to ensure compliance with the OMA. Specifically, OOG provides boards and commissions with formal and informal advice on compliance with the OMA. It investigates OMA complaints, and when necessary, issues binding opinions on compliance to public bodies. OOG may bring civil lawsuits against public bodies for violations of the OMA. There are no subdivisions under OOG.

b. Please provide a narrative explanation of any changes to the organizational chart made during the previous year.

**Response:**

**BEGA:** In FY22, the agency hired Christina Mitchell as the Chief of Staff and London Greene, as the Human Resources Specialist. These positions report to both the Director of Government Ethics and Director of Open Government. The Chief of Staff will be primarily responsible for all of BEGA's administrative matters and supervise employees that serve in administrative roles in OGE and OOG. The Human Resources Specialist position will be responsible for all human resources matters, including hiring, salaries, position classifications, etc.

**OGE:** In FY22, OGE promoted Asia Stewart-Mitchell to serve as the Supervisory Attorney Advisor; Tyrell Dow as the Administrative Officer; Millicent Jones to serve as an Attorney Advisor; and the Board permanently appointed Ashley Cooks to serve as the Director of OGE. In FY23, OGE hired Naquita Titus as the Program Support Assistant and Fran Vann as the Attorney Advisor. OGE has 2 vacancies that will be filled in the near future; Supervisory Investigator, and Auditor.

**OOG:** In FY22, OOG hired Kimberly Brown as the Paralegal Specialist, and in FY23 hired Anthony Scerbo, as the Attorney Advisor. OOG is currently fully staffed.

2. Please provide a current Schedule A for the agency which identifies each **position by program and activity, with the employee's title/position, salary, fringe benefits, and length of time with the agency.** Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate whether the position must be filled to comply with federal or local law.

**See EXHIBIT 2 – BEGA's Schedule A**

3. Please list all employees detailed to or from your agency during FY21 and FY22, to date. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

**Response:** There have been no employees detailed to or from the agency during FY22 or in FY23, to date.

4. Please provide the Committee with:

a. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned, as well as a description of all vehicle collisions involving the agency's vehicles in FY22 and FY23, to date; and

BEGA owns a Toyota Prius Prime Plus. The vehicle allows our staff to fulfill the Agency’s mission to travel around the DC Metropolitan area for investigative purposes and ethics trainings. Ronald Cook, Sr., Ileana Corrales, Ashley Cooks, Asia Stewart-Mitchell, Tyrell Dow and Ralph Bradley are authorized drivers. There have been no vehicular accidents involving BEGA’s use of government vehicles.

- b. A list of travel expenses, arranged by employee for FY21 and FY22, to date, including the justification for travel.

**See EXHIBIT 3 – BEGA’s FY22 Travel Expense**

- 5. Please list all memoranda of understanding (“MOU”) entered into by the agency during FY22 and FY23, to date, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.

**Response:**

Fiscal Year	Seller	Buyer	Service Description	Date Entered	Date Terminated	Total Amount
FY 2022	DCHR	BEGA	HR services	2/10/2022	9/30/2022	25,656.00
	OCFO	BEGA	Merchant service	12/16/2021	9/30/2022	1,933.94
	OCTO	BEGA	Cloud usage	1/14/2022	9/30/2022	4,541.87
FY 2022 TOTAL						32,131.81
FY 2023	DCHR	BEGA	HR services	11/16/2022	9/30/2023	14,463.00
	DCHR	BEGA	Certified Public Manager Program (CPM)	11/21/2022	9/30/2023	9,460.57

- 6. Please list the ways, other than MOU, in which the agency collaborated with analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY22 and FY23, to date.

**Response:** OGE: In FY22, OGE collaborated with the Campaign Legal Center (CLC), a non-profit, nonpartisan organization, to discuss implementing transparency upgrades to the BEGA website and the Comprehensive Code of Conduct. CLC utilizes litigation, policy and advocacy, communications and partnerships to achieve results of a more transparent, accountable and inclusive democracy. CLC recently issued its Transparency Upgrades for Ethics Commissions report, which provided state and local ethics commissions with innovative transparency solutions to improve how they effectively implement their ethics programs.

OOG: OOG has collaborated with the D.C. Open Government Coalition and the D.C. Library Association, non-governmental organizations, to provide training and symposia on open government issues in FY22 and FY23, to date.

7. For FY22 and FY23, to date, please list all intra-District transfers to or from the agency, and include a narrative description of the purpose of each transfer.

**Response:**

Fiscal Year	Seller	Buyer	Service Description	Date Entered	Date Terminated	Total Amount
<b>FY 2022</b>	DCHR	BEGA	HR services	2/10/2022	9/30/2022	25,656.00
	OCFO	BEGA	Merchant service	12/16/2021	9/30/2022	1,933.94
	OCTO	BEGA	Cloud usage	1/14/2022	9/30/2022	4,541.87
	OCTO	BEGA	IT Assessment	10/1/2021	9/30/2022	34,118.67
	OCP	BEGA	PCARD	10/1/2021	9/30/2022	109,044.79
	DPW	BEGA	Auto maintenance	10/1/2021	9/30/2022	1,756.15
<b>FY 2022 TOTAL</b>						<b>177,051.42</b>
<b>FY 2023</b>	DCHR	BEGA	HR services	11/16/2022	9/30/2023	14,463.00
	DCHR	BEGA	Certified Public Manager Program (CPM)	11/21/2022	9/30/2023	9,460.57
	OCTO	BEGA	IT Assessment	10/1/2022	9/30/2023	43,221.45
	DPW	BEGA	Auto maintenance	10/1/2022	9/30/2023	1,767.60
	OCTO	BEGA	Telecom services for DCNET and Non-DCNET	10/1/2022	9/30/2023	10,000.00
<b>FY 2023 TOTAL</b>						<b>78,912.62</b>

8. For FY22 and FY23, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:

- The revenue source name and code;
- The source of funding;
- A description of the program that generates the funds;
- The amount of funds generated by each source or program;
- Expenditures of funds, including the purpose of each expenditure;
- Whether expenditures from the fund are regulated by statute or policy;
- The current fund balance.

**Response**

FY	Fund	Revenue source	Expenditures Regulated by Statute/Policy	Beginning Fund Balance	Revenue	Sweeps	Expenditure	Ending Fund Balance
<b>2022</b>	0601 ACCOUNTABILITY FUND	Fines from Financial Disclosure System and other fines	SPR: D.C. Official Code § 1-1162.10. Ethics Fund D.C. Official Code§ 1-1162.10a Open Government Fund.	48,383.04	113,160.35	(45,000.00)	-	116,543.39
	0602 LOBBYIST FUND	Lobbyist registration fees	SPR: D.C. Official Code § 1-1162.10. Ethics Fund D.C. Official Code§ 1-1162.10a Open Government Fund.	126,442.62	72,336.58	(60,000.00)	(55,889.99)	82,889.21
<b>FY 2022 TOTAL</b>				<b>174,825.66</b>	<b>185,496.93</b>	<b>(105,000.00)</b>	<b>(55,889.99)</b>	<b>199,432.60</b>
<b>2023</b>	1060013 ACCOUNTABILITY FUND	Fines from Financial Disclosure and other fines	SPR: D.C. Official Code § 1-1162.10. Ethics Fund D.C. Official Code§ 1-1162.10a Open Government Fund.	116,543.39	17,068.00	-	(60,000.00)	73,611.39
	1060029 LOBBYIST FUND	Lobbyist registration fees	SPR: D.C. Official Code § 1-1162.10. Ethics Fund D.C. Official Code§ 1-1162.10a Open Government Fund.	82,889.21	50,230.00	0.00	(47,926.45)	85,192.76
<b>FY 2023 TOTAL</b>				<b>199,432.60</b>	<b>67,298.00</b>	<b>0.00</b>	<b>(107,926.45)</b>	<b>158,804.15</b>

9. For FY22 and FY23, to date, please list all purchase card spending by the agency, the employee making each expenditure, and the general purpose of each expenditure.

**See EXHIBIT 4 - BEGA FY21 and FY22 Purchase Card Reports**

10. Please list all capital projects in the financial plan for the agency or under the agency's purview in FY22 and FY23, to date, and provide an update on each project, including the amount budgeted, actual dollars spent, and any remaining balances. In addition, please provide:

- a. An update on all capital projects begun, in progress, or concluded in FY22, and FY23, to date, including the amount budgeted, actual dollars spent, and any remaining balances;
- b. An update on all capital projects planned for the four-year financial plan;
- c. A description of whether the capital projects begun, in progress, or concluded in FY21, FY22, and FY23, to date, had an impact on the operating budget of the agency. If so, please provide an accounting of such impact; and
- d. A description and the fund balance for each existing allotment in each capital project under the agency's purview.

**Response:** There are no existing capital projects and no capital projects in the financial plan.

11. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY22 and FY23, to date. For each, include a description of the need and the amount of funding requested.

**Response:**

**FY22:**

BEGA submitted a budget enhancement request to relocate to a sufficient space that would suit the growing staff for both offices. OGE submitted a FY22 budget enhancement request for a Chief of Staff to oversee agency operations, manage the administrative staff from both offices, coordinate and execute BEGA's administrative needs, and service as an agency information officer. OGE submitted a request for a Human Resources Specialist to manage the overseeing, directing, and administering a range of human resources functions to include staffing and recruitment, classification and compensation, benefits, and payroll functions for the agency. OGE submitted a request to purchase a learning management system to assist BEGA to serve employees and public officials, by providing remote, on-demand ethics trainings that are specifically tailored to the District's Code of Conduct. OGE also submitted a budget enhancement request for personnel reclassifications.

OOG submitted a FY22 budget enhancement request for a Paralegal Specialist position to facilitate Open Meetings Act enforcement. The position is required to investigate OMA cases and serve as a fact witness if an OMA case is filed in Superior Court. The legal staff may have conflicts of interest that would prevent them from serving as a fact witness. Having a paralegal available to provide this testimony would solve that problem. A paralegal would also increase the speed at which OOG’s attorneys are able to respond to requests for advice by providing research and analysis for agency attorneys. This staff member would also facilitate trainings and attend public body meetings, thus enhancing the effectiveness of OOG. The Paralegal enhancement request is for \$90,325 to support the position.

**FY23**

FY24 Enhancement Request	Description	Amount
Non-Personnel Services Restoration	Due to COLA and personnel step increasing, BEGA was required to eliminate or drastically decrease funding to staff training, travel, printing, vehicle maintenance, and current contracts.	\$ 200
OOG Employee Retention	Additional funds needed to bring the salary to parity with the OGE.	\$ 60
LRR System Upgrade	Operational Improvements	\$ 135
OOG Website Redesign	Operational Improvements	\$ 24
Public Information Officer	Staff required to increase the agency's need for more community outreach, and keeping all constituents abreast of the updates and expectations.	\$ 85
Sr. IT Specialist	Operational Improvements	\$ 137
OGE Legal Fellows	Racial Equity project	\$ 65
OOG Legal Fellows	Racial Equity project	\$ 65

12. Please list, in chronological order, each reprogramming in FY22 and FY23, to date, that impacted the agency, including those that moved funds into the agency, out of the agency, or within the agency. Include known, anticipated reprogrammings, as well as the revised, final budget for your agency after the reprogrammings. For each reprogramming, list the date, amount, rationale, and reprogramming number.

FY	From/To Agency	Date	Justification	From/To CSG	Amount
2022	Within AG0/BEGA	5/4/2022	The funds are needed to purchase an online payment portal, employee trainings, computers, and office equipment.	REGULAR PAY - CONT FULL TIME	(160,000.00)
				FRINGE BENEFITS - CURR PERSONNEL	(60,000.00)
				OTHER SERVICES AND CHARGES	208,000.00
				EQUIPMENT & EQUIPMENT RENTAL	12,000.00
Within AG0/BEGA	6/27/2022	The funds are needed to acquire professional consulting services and supplies.	REGULAR PAY - CONT FULL TIME	(70,000.00)	
			FRINGE BENEFITS - CURR PERSONNEL	(30,000.00)	
			SUPPLIES AND MATERIALS	10,000.00	
			OTHER SERVICES AND CHARGES	90,000.00	
					<b>100,000.00</b>
2023	Within AG0/BEGA	Pending approval	The funds are needed to fulfill BEGA's depleting professional services, equipment, and supplies.	CONTINUING FULL TIME	(80,000.00)
				MISC FRINGE BENEFITS	(20,000.00)
				OFFICE SUPPLIES	2,000.00
				PROF SERVICE FEES & CONTR	88,000.00
				PURCHASES EQUIPMENT & MACHINE	10,000.00

13. Please list each grant or sub-grant **received by** your agency in FY22 and FY23, to date. List the date, amount, source, purpose of the grant or sub-grant received, and amount expended.

- a. How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans, if any, are in place to continue funding the FTEs?

**Response:** BEGA has not received any grant or sub-grant funding.

14. Please list each grant or sub-grant **granted by** your agency in FY22 and FY23, to date. List the date, amount, source, and purpose of the grant or sub-grant granted.

**Response:** There has been no grant or sub-grant.

15. Please list each contract, procurement, and lease, entered into or extended and option years exercised by your agency during FY22 and FY23, to date. For each contract, procurement, or lease, please provide the following information, where applicable:

- a. The name of the party;
- b. The nature of the contract, procurement, or lease, including the end product or service;
- c. The dollar amount of the contract, procurement, or lease, including amount budgeted and amount actually spent;
- d. The term of the contract, procurement, or lease;
- e. Whether it was competitively bid;
- f. The name of the agency's contract monitor(s) and the results of any monitoring activity; and
- g. The funding source.



**Response:**

Fiscal Year	Funding source	Vendor	Service Description	Term	Bid competitively	Amount
FY 2022	Local	ABSTRACT EVOLUTIONS LLC	FDS e-filer Enhancement	6/5/21 to 9/30/21	Yes	88,755.00
		DIA PRODUCTIONS INC	Training	8/24/21 to 9/30/21	No	22,000.00
		LRN CORPORATION	Hosting online Learning Management System (LMS)	10/1/21 to 9/30/22	No	136,000.00
		METROPOLITAN STRATEGIES & SOLUTIONS	Organization transformation advisory services	9/7/22 to 9/30/22	Yes	87,233.90
		WINGSWEPT LLC	CMTS annual maintenance support	10/1/21 to 9/30/22	No	33,641.64
		WEST PUBLISHING CORP	Clear for Government Fraud	11/17/21 to 9/30/22	No	8,520.00
<b>FY 2022 TOTAL</b>						<b>376,150.54</b>
FY 2023	Local	LRN CORPORATION	Hosting online Learning Management System (LMS)	10/1/22 to 9/30/23	No	136,000.00
		WINGSWEPT LLC	CMTS annual maintenance support	10/1/22 to 9/30/23	No	32,353.77
		WEST PUBLISHING CORP	Clear for Government Fraud	10/2/22 to 9/30/22	No	9,116.40
<b>FY 2023 TOTAL</b>						<b>595,782.35</b>

16. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to significant financial liability or will result in a change in agency practices, and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success. For those identified, please include an explanation about the issues involved in each case.

**Response:** BEGA has NO pending lawsuits.

17. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY22 or FY23, to date, and provide the parties' names, the date the settlement was entered into, the amount of the settlement, and if related to litigation, the case name, docket number, and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, excessive use of force, etc.).

**Response:** BEGA has NO settlements.

18. Did the agency use outside counsel in FY22 and FY23, to date? If so, for what matter(s) and in what amount(s)?

**Response:** BEGA has NOT used outside counsel.

19. Please list the administrative complaints or grievances that the agency received in FY22 and FY23, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to agency policies or procedures that have resulted from complaints or grievances received. For any complaints or grievances that were resolved in FY22 or FY23, to date, describe the resolution.

**Response:** BEGA received no administrative complaints or grievances.

20. Please describe the agency's procedures for investigating allegations of sexual harassment, sexual misconduct, or discrimination committed by or against agency employees. List and describe any allegations relating to the agency or its employees in FY22 and FY23, to date, and whether and how those allegations were resolved (e.g. a specific disciplinary action, such as re-training, employee transfer, suspension, or termination).

**Response:** BEGA follows the procedures set forth in Mayor's Order 2017-313, "Sexual Harassment Policy, Guidance, and Procedures." Consistent with the Order, BEGA has a Sexual Harassment Officer (S.H.O.) who is charged with receiving and investigating allegations of sexual harassment. BEGA utilizes the processes and procedures set forth in the District of Columbia Personnel Manual when investigating allegations of sexual harassment, sexual misconduct, or discrimination committed by or against agency employees. See <https://edpm.dc.gov/issuances/sexual-harassment-reports-and-investigations>.

The agency did not receive any allegations of sexual harassment, sexual misconduct, or discrimination committed by or against agency employees during FY22 or FY23, to date.

a. Please also identify whether the agency became aware of any similar matters in FY22 or FY23, to date, through means other than an allegation, and if so, how the matter was resolved (e.g. sexual harassment was reported to the agency, but not by the victim).

**Response:** BEGA: None.

21. Please provide the Committee with a list of the total workers' compensation payments paid by the agency or on the agency's behalf in FY22 and FY23, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

**Response:** The agency did not pay any workers' compensation payments in FY22 or FY23, to date.

22. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency, or any investigations, studies, audits, or reports on the agency or any employee of the agency that were completed during FY22 and FY23, to date.

**Response:** BEGA has no ongoing investigations, audits, or reports.

23. Please describe any spending pressures the agency experienced in FY22 and any anticipated spending pressures for the remainder of FY23. Include a description of the pressure and the estimated amount. If the spending pressure was in FY22, describe how it was resolved, and if the spending pressure is in FY23, describe any proposed solutions.

**Response:** The NPS enhancement is paramount to BEGA's existing programming. BEGA will not have the funds to provide mission critical training and education to its employees. BEGA's attorneys and investigators require specialized trainings to continue the agency's mission of administering and enforcing the Code of Conduct, as well as maintaining compliance with government transparency laws. This enhancement is extremely important so the BEGA can continue to receive services under existing contracts for its case management system, learning management system and parliamentary procedure database. Those systems are currently received through option contracts with the respective vendors. Without this enhancement, BEGA will not have the funding to exercise option contracts for FY 2024.

- OOG needs to examine the revision of the Open Meetings Act and regulations to facilitate the continued use of online platforms to provide open meetings online. We must also assist public bodies with transitioning to in-person meetings and hybrid meetings (some online, others in person).
- The LRR e-filing system was created by OCTO in 2018 without the specifications to fully address all of the program needs, new updates are required to fulfill mission critical task.
- OOG needs to expand its enforcement and education capacity to meet the addition of new public bodies and members to the District's Boards and Commissions.
- The PIO position will serve as the point of contact for BEGA for all communications with media and the community.
- The Legal Fellows will serve in a junior capacity to support our legal team work through the Racial Equity Initiative and other agency wide outreach initiatives.

24. Please provide a copy of the agency's FY22 performance plan. Please explain which performance plan objectives were completed in FY22, and whether they were completed on time and within budget. If they were not, please provide an explanation.

**See EXHIBIT 5 - BEGA FY22 Performance Plan**

25. Please provide a copy of your agency's FY23 performance plan as submitted to the Office of the City Administrator.

**See EXHIBIT 6 - BEGA FY23 Performance Plan**

26. Please describe any regulations promulgated by the agency in FY22 or FY23, to date, and the status of each.

**Response:** BEGA did not promulgate any regulations in FY22 or FY23, to date.

27. Please provide the number of FOIA requests for FY22 and FY23, to date, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In

addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.

**Response:** In FY22, 25 requests were submitted to BEGA. 1 request was granted, in whole; 2 requests were partially granted; 3 requests were denied, in whole; 0 requests were withdrawn; and 0 requests were pending; 19 requests had a no records disposition.

The average response time was 10 days; estimated number of FTEs required to process requests were 2; estimated number of hours spent responding to requests was 156; and the total cost of compliance was \$9,204.00.

In FY23, to date, 3 requests were submitted to BEGA. 0 requests were granted in whole; 0 requests were partially granted; 1 request was denied, in whole; 0 requests were withdrawn; and 0 requests are pending; 2 requests had a no records disposition.

The average response time was 14 days; estimated number of FTEs required to process were 2; estimated number of hours spent responding to requests was 10; and the total cost of compliance was \$590.00.

28. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or contracted for during FY21 and FY22, to date. Please state the status and purpose of each. Please submit a hard copy to the Committee if the study, research paper, report, or analysis is complete.

**Response:** In FY21 and FY22, BEGA produced its Best Practices Report, providing recommendations on improving the District's government ethics and open government and transparency laws, including: (1) An assessment of ethical guidelines and requirements for employees and public officials; (2) A review of national and state best practices in open government and transparency; and (3) Amendments to the Code of Conduct, the Open Meetings Act, and the Freedom of Information Act of 1976.

**OGE:** In FY22 and FY23, OGE published Quarterly Complaint Report (<https://bega.dc.gov/publications?type=1416>), and Ethically Speaking (<https://bega.dc.gov/newsroom>) Newsletter.

**OOG:** In FY22 and FY23, to date the Office of Open Government released its newsletter, which is a report where we provide an update on the activities of OOG, including the advisory opinions we have issued and other open government topics of interest.

[FY2023 Issue 1](#)

[FY2022 Issue](#)

29. Please list in descending order the top 25 overtime earners in your agency in FY22 and FY23, to date, if applicable. For each, state the employee's name, position number, position title, program, activity, salary, fringe, and the aggregate amount of overtime pay earned. Please describe the process the agency uses to determine which employees are granted overtime.

**Response:** No overtime was paid in FY22 or FY23.

30. For FY22 and FY23, to date, please provide a list of employee bonuses or special pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.

**See EXHIBIT #7**

31. For FY22 and FY23, to date, please list each employee separated from the agency with separation pay. State the amount and number of weeks of pay. Also, for each, state the reason for the separation.

**Response:** For FY22 and FY23, to date, no agency employee separated from the agency with separation pay.

32. Please provide the name of each employee who was or is on administrative leave in FY22 and FY23, to date. In addition, for each employee identified, please provide: (1) their position; (2) a brief description of the reason they were placed on leave; (3) the dates they were/are on administrative leave; (4) whether the leave was/is paid or unpaid; and (5) their current status.

**Response:** BEGA has not placed any employees on administrative leave.

33. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and its anticipated completion.

**Response:** There are no collective bargaining agreements that are currently in effect for any agency employees.

34. If there are any boards, commissions, or task forces associated with your agency, please provide a chart listing the names, number of years served, agency affiliation, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each board, commission, or task force meeting in FY22 or FY23, to date, if minutes were prepared. Please inform the Committee if the board, commission, or task force did not convene during any month.

**Response:**

Board Member	Years served	Term ends	Member attendance
Norma Hutcheson, Chair	6	July 1, 2028	Attended all meetings
Melissa Tucker	3	July 1, 2028	Attended all meetings except for November 3, 2022
Charles Nottingham	3	July 1, 2026	Attended all meetings
Felice Smith	3	July 1, 2024	Attended all meetings
Darrin Sobin	4	July 1, 2024	Attended all meetings except for March 3, 2022 and September 8, 2022

BEGA’s Board Meeting Agenda, Minutes, and Meeting Recordings from FY22 and FY23 may be accessed here: <https://bega.dc.gov/publications?type=241>

There are no vacancies on BEGA’s Board. Information regarding BEGA’s Board members may be accessed here: <https://bega.dc.gov/board-members>

35. Please list all reports or reporting currently required of the agency in the District of Columbia Code or Municipal Regulations. Provide a description of whether the agency is in compliance with these requirements, and if not, why not (e.g. the purpose behind the requirement is moot, etc.).

**Response:** BEGA is in full compliance with the regulations.

- D.C. Official Code § 1-1162.19 – Advisory Opinions
- D.C. Official Code § 1-1162.20 – Quarterly Complaint Report
- D.C. Official Code § 1-1162.02(b) – Best Practices Report
- D.C. Official Code § 2-576 (3) – Notice of meetings, including agenda
- D.C. Official Code § 2-578(b)(1) – Copies of minutes
- D.C. Official Code § 1-1162.24 (c) – List of public officials who have filed a public financial disclosure statement, received an extension of the deadline for filing, or not filed
- D.C. Official Code § 1-1162.29(b)(2) – summary of registered lobbyist information by August 15<sup>th</sup> or within 10 days after registering

36. Please provide a list of any additional training or continuing education opportunities made available to agency employees. For each additional training or continuing education program, please provide the subject of the training, the names of the trainers, and the number of agency employees that were trained.

**See EXHIBIT 8 – BEGA FY22 and FY23 Staff Training-Education**

37. Please describe any initiatives that the agency implemented in FY22 or FY23, to date, to improve the internal operations of the agency or the interaction of the agency with outside parties. Please describe the results, or expected results, of each initiative.

**Response:**

OGE: In FY22, OGE hired a consulting firm, Metropolitan Strategies and Solutions, to conduct an organizational review and assessment, identify key administrative policies, and develop organization and policy roadmaps to inform future-state recommendations, and provide recommendations on policies and operations. The assessments established a baseline for BEGA's current organizational maturity level, identified stakeholder attitudes and perceptions related to the agency's mission, vision, and overall direction, captured and sorted pain points to understand the stakeholder experience and developed current-state and future-state recommendations. OGE also re-engaged with its fellow investigative agency, the Office of the Inspector General, to conduct quarterly case meetings. The purpose of the meetings is to discuss joint investigations, matters that are stayed pending an OIG investigation, investigations that have been referred between both agencies, and pending investigations. As a result, OGE's investigative team is more informed on matters that may be within BEGA's jurisdiction.

38. What are the agency's top five priorities? Please explain how the agency expects to address these priorities in FY22. How did the agency address its top priorities listed for this question last year?

**Response:** OGE: FY23 Priorities

1. Secure new office space that is safe and meets the agency's needs. In FY22, BEGA was approved to receive funding for an office relocation. We have selected an office space located at 1050 15<sup>th</sup> Street NW. We are working with the Department of Government Services ("DGS") on construction and design of the new office space. The targeted move-in is scheduled for July 2023.
2. Implementation of Ethics Legislation. The agency's top legislative priority remains encouraging passage of a Comprehensive Code of Conduct ("CCC"). OGE has begun meeting with stakeholders to gain support for ethics reform. The CCC will streamline the District's ethics by including all employees and public officials under one set of ethics rules; require annual training for all employees, require approval for outside employment, and standardize the financial disclosure designation process.
3. Collection of delinquent debt. In December 2022, the Board of Ethics and Government Accountability Delinquent Debt Recovery Amendment Act of 2022 was enacted. This

legislation allows BEGA to discretionarily transfer delinquent debts associated with settlements and judgements for ethics and Open Meeting Act violations to the District's Central Collection Unit, and for the funds collected on BEGA's behalf to be deposited into the Ethics Fund or OMA Fund instead of the General Fund. The additional funding will allow BEGA to supplement its operations budget. OGE is in the process of coordinating a memorandum of understanding with the Office of the Chief Financial Officer for the collection of delinquent debt that resulted from ethics violations.

4. Make the Financial Disclosure E-filing System accessible to all Filers. OGE is charged with administering the District's Financial Disclosure Statement Program. An employee who is designated as a filer, by either the Ethics Act or their agency, must file an annual financial disclosure statement. Currently, only public financial disclosure filers use the e-filing system to file their statements, which is accessible to the public, and confidential filers submit their forms to their agency's ethics counselor. BEGA does not maintain the confidential statements, but the agency's ethics counselor maintains a copy on file and reviews the forms for any potential ethics issues. There have been issues with determining whether confidential filers timely submitted their form and issues with the completeness and accuracy of those forms. Allowing the confidential filers to submit their statements on the e-filing system will alleviate those issues.
5. Upgrades and improvements to the Lobbyist Registration and Reporting E-filing System. Per D.C. Code § 1-1162.27 persons who expend or receive \$250 or more in a three-month period for lobbying must register with the Director of Government Ethics on an annual basis. BEGA maintains an electronic filing system, which allows lobbyists to submit the required registrations and activity reports and provides this information to the public as a means of government transparency. However, the lobbyists e-filing system requires essential technological upgrades which will rectify filing inaccuracies that lead to duplicate forms, late fees, and incorrect information. In the current e-filing system lobbyists are able to terminate their registration without filing an activity report; the system allows lobbyists to file subsequent activity reports before filing a past activity report, which leads to missing information on the previous quarter; the system does not distinguish between a client and lobbyist, which leads to confusion; the system allows lobbyists to submit a registration form without paying the requisite registration fee, and the system does not calculate fines for late filings, etc. The upgrades will stream-line the filing process for lobbyists, provide accurate information to residents, and allow BEGA to properly administer the program. OGE has requested an FY24 budget enhancement request to make these changes, but plans to implement some upgrades to the system in FY23, if funding is available.

#### OGE FY22 Top 5 Priorities Update

1. Secure new office space that is safe and meets the agency's needs. BEGA received funding to secure new office space in FY22. As previously stated that agency continues to work with DGS to finalize the construction and design of the new space.



2. Implementation of Ethics Legislation. The passage of the Comprehensive Code of Conduct continues to be a top priority for OGE.
3. Expand Educational Offerings to District employees. OGE launched its ethics learning management system in FY22 which offers twenty-six, on-demand ethics trainings for employees.
4. Implement upgrades and improvements to the FDS e-filing system. OGE implemented the following upgrades to the e-filing system: increased administrative controls, improved Advisory Neighborhood Commissions filing credentials, and added certification language and upgrades for Council member filings.
5. Implement Standard Operating Procedure and Policies. OGE implemented standard operating procedures for its lobbying and financial disclosure statement programs.

OOG FY23 Top 5 Priorities:

1. Create an OMA Training Manual: The process of establishing and creating a training manual on the OMA for administrative points of contact who serve public bodies is still ongoing. OOG is required to work with the Mayor's Office to create this manual and we look forward to accomplishing this collaboration that will result in the publication of the OMA training manual.
2. Create an Online Training Program for DC FOIA Officers with DCHR. OOG provided a series of live training courses for FOIA Officers which are available online and were distributed to D.C. FOIA Officers. OOG needs to make these training courses available on the DCHR training platform. OOG looks forward to working with DCHR to provide these courses online to DC government employees serving as FOIA Officers.
3. Issue New Regulations Regarding Open Meetings. OOG plans to issue regulations concerning electronic meetings and emergency meetings to clarify issues and questions concerning meetings.
4. Archive BEGA's Records According to the Agency's Records Retention Schedule. BEGA is scheduled to move into its new facility in FY23. Prior to the move OOG will coordinate the archiving of all agency records with BEGA's Administrative Division.
5. Publish OOG's Advisory Opinions in the D.C. Register. OOG is working with the Office of Documents and Administrative Issuances to have all of its Advisory Opinions published in the D.C. Register and seeks to have full publication in FY23.

OOG FY22 Top 5 Priorities Status:

1. Recruited and Hired a Paralegal and Established Procedures for OMA Litigation. OOG completed the process of recruiting and hiring a Paralegal Specialist. OOG's establishment of procedures for handling OMA Litigation is still evolving. Now that the OOG Paralegal is in place, she will be working with the OOG Chief Counsel and Trial Attorney to establish clear protocols and procedures for OMA litigation.
2. Trained Public Charter School Boards of Trustees on the OMA. OOG performed live training for Public Charter School Boards of Trustees on the OMA. OOG worked with the Public Charter School Board's attorney to establish a regular training program for them.
3. Created an Online Training Program for DC FOIA Officers. OOG provided a series of live training courses for FOIA Officers which are available online and were distributed to D.C. FOIA Officers.
4. Create Training Material for DC FOIA Officers. OOG completed and distributed training materials for DC FOIA Officers, including templates for responses to requests.
5. Creating an OMA Training Manual. OOG worked with an outside contractor to create and launch a training portal that includes OMA and Robert's Rules of Order training. The process of developing a training manual on the OMA for administrative points of contact that serve the public bodies is still ongoing.

39. Please list each new program implemented by the agency during FY22 and FY23, to date. For each initiative, please provide:

- a. A description of the initiative;
- b. The funding required to implement the initiative; and
- c. Any documented results of the initiative.

**Response:**

a. A description of the initiative;

OGE: In FY22 OGE launched its online ethics learning management system. BEGA is statutorily charged with administering and enforcing the District's Code of Conduct. D.C. Official Code § 1-1162.02, *et. seq.* BEGA achieves this mission through the duties and responsibilities of the Director of Government Ethics who, among other things, conducts mandatory training on the Code of Conduct. The learning management system provides on-demand ethics trainings for the District's 37,000 employees and public officials.

In FY22, OGE re-established its bi-monthly newsletter as a means of providing outreach to employees and members of the public. The newsletter provides information on ethics matters, events, and rules of the Code of Conduct.

In FY22 OGE, implemented an online payment portal which is accessible via BEGAs website, employees who are fined for violating the ethics rules, as well as lobbyists who receive fines for untimely filings, can utilize the payment link. The payment link improves BEGAs fine collection process.

b. The funding required to implement the initiative; and

OGE: In FY22, OGE received a budget enhancement request for \$126,000 to purchase the learning management system. The system cost \$136,000 annually. There was no funding required to establish the newsletter.

c. Any documented results of the initiative.

OGE: The learning management system provides data on the number of registered users, course completion, and user analytics. Since the launch of the system, 374 employees have registered and completed training modules.

40. How does the agency measure programmatic success? Please discuss any changes to outcomes measurement in FY22 and FY23, to date.

**Response:**

OGE: OGE measures programmatic success through its case management system, informal and formal ethics advice, training evaluations, and Lobbyists and Financial Disclosure e-filing systems.

OOG: OOG measures our programmatic success by (1) the ability to conduct trainings and training evaluations; (2) completion of advisory opinions; and (3) informal and formal advice rendered. We report on these aspects monthly to the BEGA Board.

41. What are the top metrics and Key Performance Indicators regularly used by the agency to evaluate its operations? Please be specific about which data points are monitored by the agency.

**Response:** OGE: See Exhibits 5 and 6. We measure the number of complaints we receive; the number of investigations we initiate; the length of time it takes to resolve our investigations after initiation, the number of trainings we conduct; the number of both formal and informal requests for ethics advice we receive; and the number of required Financial Disclosure Statement filers – both Public and Confidential – who submit their FDS statements before the established deadlines.

OOG: The Executive's Performance Measurement Program is not a good fit for OOG, so it does not use KPIs to evaluate its operations. OOG must rely on outside entities to schedule trainings and conduct evaluations for its statutorily mandated trainings. Further, although public body member OMA training is mandatory, OOG cannot compel attendance. Non-mandatory trainings are provided upon request, so it is difficult to create attainable metrics respecting training. OOG reports on its performance monthly to the BEGA Board.

42. Please identify whether, and if so, in what way, the agency engaged The Lab @ DC in FY22 or FY23, to date.

**Response:** BEGA had no engagement with The Lab @ DC.

43. Please list the task forces and organizations of which the agency is a member.

**Response:**

OOG: The Mayor's Open Government Advisory Group; the American Society of Access Professionals; OCTO Chief Information Officer Council; and the Council on Government Ethics Laws; the Society of Corporate Compliance and Ethics.

OGE: Council on Government Ethics Laws and the Society of Corporate Compliance and Ethics.

44. Please explain the impact on your agency of any legislation passed at the federal level during FY22 and FY23, to date, which significantly affected agency operations.

**Response:** BEGA has not been affected by the passage of federal legislation.

45. Please describe any steps the agency took in FY22 and FY23, to date, to improve the transparency of agency operations, including any website upgrades or major revisions.

**Response:** OGE: OGE continues to add additional resources to its agency outreach efforts to promote understanding of the agency's operations in support of its mission to ensure that District employees understand and uphold the District's Code of Conduct. To that end, OGE continues to partner with agencies to better understand the specific ethics issues facing each agency and its employees. OGE provides specialized trainings to agencies, conducts monthly brown bag discussions for ethics counselors to provide a better understanding of OGE's operations and to solicit input on how OGE can be more open and accessible. In FY22, OGE contracted with Abstract Evolutions to make upgrades to the Financial Disclosure Statement e-filing system and in FY23 OGE is using the upgraded Financial Disclosure Filing System to handle both public and confidential financial disclosure statement filings. Also in FY22, OGE collaborated with the Campaign Legal Center (CLC), a non-profit, nonpartisan organization, to discuss implementing transparency upgrades to BEGA's website. OGE engaged OCTO in FY22 to redesign BEGA's website to implement these transparency upgrades, including streamlining

access to OGE guidance materials, trainings, advisory opinions and enforcement actions. The revised BEGA website, which is expected to launch this spring, will allow District employee and the public to more easily access information about the agency's operations.

OOG: In FY22 and FY23, to date, OOG continued to make updates to its website, [open-dc.gov](https://open-dc.gov), including reorganizing advisory opinions, and posting training materials on compliance with the Open Meetings Act and the Freedom of Information Act.

46. Please identify all electronic databases maintained by your agency, including the following:

- a. A detailed description of the information tracked within each system;
- b. The age of the system and any discussion of substantial upgrades that have been made or are planned to the system; and
- c. The age of the system and any discussion of substantial upgrades that have been made or are planned to the system; and

**Response:**

OGE: The BEGA website is the central location for public information concerning BEGA/OGE. It contains all Formal Advisory Opinions issued by the Office of Government Ethics, Board decisions with respect to enforcement actions, the quarterly complaint report, and announcements such as news, trainings, and other events. The BEGA website also provides instructions and forms for filing ethics complaints, and, importantly, links to the Lobbyist and FDS databases. The website is also where the Ethics Manual, the Code of Conduct and the several Best Practices Reports reside. The public has access to the BEGA website.

- OGE manages the Lobbyist Registration and Reporting Filing system, which allows Lobbyists to electronically register, pay their fees, and file their activity reports four times per year as required. The activity reports contain information concerning all contacts lobbyists have had with government officials and the nature of those communications. The activity reports also contain information concerning funds expended for lobbying activities and client information. BEGA launched a new LRR E-Filing system in January 2019. The public can search for Lobbying Registration Reports and Lobbyist Activity Reports through this system.
- The Financial Disclosure Statement (FDS) E-Filing system is the repository for all Public Financial Disclosure filings by public officials (certain high-level employees as well as elected officials). The public can access this system to search for employees' public financial disclosures. OGE launched a new FDS E-Filing system for the May 2018 filing season. In 2022, the system under major upgrades which included
  - Advisory Neighborhood Commission (ANC) logon and redirect to ANC only required confirmation statements
  - Create and require E-Signature for filers

- Provide better OGE/BEGA Admin control over filers
  - Improve the language and form design for OGE/BEGA FDS Team
  - Improve OGE/BEGA Reporting
  - Creating column for additional filing period for Council members bi-annual FDS filings
  - Customizing administrative controls
  - Customizing the certification language for Council member filings
- OGE manages a Learning Management System which allows employees to access on-demand ethics trainings and materials. The system also tracks employees' training transcripts and provides analytics, which can be used to initiate targeted trainings. The system was purchased in FY21 and launch in FY22.
- Finally, BEGA also uses its web-based CMTS electronic case management system to manage and track complaints, investigations, regulatory matters, and audits. The system provides file storage and sharing, configurable alerts and reminders, financial action tracking, robust reporting capabilities and an advanced audit trail of record changes. BEGA upgraded to this system in FY18. CMTS is not accessible to the public given that the database contains sensitive, confidential, and privileged content related to OGE's investigations.

OOG: OOG maintains a central meeting calendar for all District government boards and commissions on the OOG website at [www.open-dc.gov](http://www.open-dc.gov). The calendar may be utilized by public body points of contact with administrative rights to upload meeting-related information and records, such as meeting dates, agendas, audio recordings, video links, slide decks, meeting minutes, etc. The system has been maintained internally by the OOG since FY14, and all administrative profiles are managed by the OOG. The content of the calendar is accessible by any member of the public with internet access. OOG also maintains an internal advice management database which contains FOIA, OMA and all technical advice (pertaining to access to the central calendar and assistance with tracking requests through FOIAXpress) provided to agencies and the public. OOG maintains an internal case management system to track all OMA complaints and OMA complaint transactions. The database, for internal access only, is designed to manage all cases processed by OOG as part of a comprehensive management system.

- The databases on BEGA's websites, [open-dc.gov](http://open-dc.gov) and [bega.dc.gov](http://bega.dc.gov), track all documents and posts/meetings that public bodies enter within the website for viewing. Database is comprised of all information and coding necessary to give the

webpages their structure. With respect to the internal operating systems, we have two databases. One managed by OCTO and one managed internally by our IT Specialist. The information tracked within both only revolves around what is added to the sites themselves or what users are accessing.

- BEGA's websites are run through Drupal, which is an Open-Source Content Management System. There are version upgrades to the Drupal system, but this does not affect the physical layout of the websites. BEGA will follow OCTO's recommendations concerning Drupal system updates. BEGA plans to upgrade the software version of the website itself, which should add more features for ease of access and use, before the end of FY22. The websites have been operational since BEGA's creation in FY13. With respect to the websites, the public has access to the entirety of both sites. Content management credentials on the websites are only granted to D.C. government employees and public bodies' administrators that must post on the websites to keep the public updated on meetings and content from their organizations.
  
- Please note that the public cannot be given access to our backend servers, as they hold sensitive data and misplacement of data can cause errors. There is no hidden information on our sites; however, so the public can essentially see everything on our websites. We grant access to other agencies and organizations so that they may post information about meetings and news that is supposed to be available for the public.

### Agency Operations

47. Please provide the Committee with a brief summary of advisory opinions issued during FY22 and FY23, to date, along with a notation as to whether the opinion was requested or issued *sua sponte*.

### Response:

#### OGE

- **Outside employment and Private Representation** - This opinion provides guidance on the outside employment and activity restrictions set forth in the District Personnel Manual § 1807. The opinion clarifies that employees are prohibited from engaging in outside employment that is incompatible with government service, and that Board or Commission Members are prohibited from representing a third party before their board or commission and employing agency. The opinion was published on BEGA's website, in draft form, in September 2022. The opinion remained in draft form during a 30-day comment period. OGE received no comments and finalized the opinion after the comment period. This opinion was issued *sua sponte*.

- **Guidance on Local Hatch Act and Fundraising** - This advisory opinion provides guidance on the Local Hatch Act and fundraising as set forth in D.C. Official Code § 1-1171. The opinion reiterates the restrictions around fundraising and explains the political designation rule. The opinion was published on BEGA's website, in draft form, in September 2022. The opinion remained in draft form during a 30-day comment period. OGE received no comments and finalized the opinion after the comment period. This opinion was issued *sua sponte*.
- **Seeking or Negotiating Employment** – This opinion provides guidance on maintaining ethical standards while seeking or negotiating for future employment. This advisory opinion addresses seeking and negotiating for employment and the recusal obligation that is necessary to avoid a violation of the ethics rules, or the appearance of a violation. The opinion was published on BEGA's website, in draft form, in December 2021. The opinion remained in draft form during a 30-day comment period. OGE received no comments and finalized the opinion after the comment period. This opinion was issued *sua sponte*.

## OOG

### Links to OOG's opinions are included in Exhibit 11.

- OMA Complaint: On November 29, 2022, the Director dismissed complaint #OOG-2022-0009-M against the Advisory Neighborhood Commission. The complaint alleged that the ANC violated the OMA. The Resolution of Complaint concluded that the Director had no statutory authority to resolve the allegation and recommended the Office of Inspector General as the appropriate entity to consider the merits of the complaint.
- OMA Complaint: On November 14, 2022, The Director issued an advisory opinion Advisory Opinion #OOG-2021-0004-M addressing an Open Meetings Act complaint against the Calvin Coolidge High School Local School Advisory Team. The complaint alleges that the advisory team violated the OMA by failing to provide the public with a link to attend or view it's monthly meetings, provide the public with timely notice, and provide electric meeting recordings upon request. The AO found that against the Calvin Coolidge High School Local School Advisory Team failed to comply with the OMA and provided recommendations.
- OMA Complaint: On October 12, 2022, the Director dismissed complaint #OOG-2022-0008-M against an Advisory Neighborhood Commission. The complaint alleged that the ANC violated the OMA. The Resolution of Complaint concluded that the Director had no statutory authority to resolve the allegations.



- OMA Complaint: On September 2, 2022, the Director issued an advisory opinion, #OOG-2022-0005-M, addressing an Open Meetings Act complaint against the Mayor's Healthcare Workforce Task Force. The Complaint alleged that HWTF violated the notice, meeting records, and virtual meeting protocol provisions outlined in the OMA. The AO found that HWTF failed to comply with the OMA and provided recommendations.
- OMA Complaint: On August 26, 2022, the Director of Open Government dismissed complaint #OOG-2022-0004-M concerning the Alcoholic Beverage Control Board. The complaint alleged that ABC Board violated OMA by not allowing an owner of an establishment under its investigation to attend an in-person meeting. The Resolution of Complaint concludes that the actions complained of do not violate the OMA.
- FOIA Advisory Opinion: On August 1, 2022, the Director of Open Government issued Advisory Opinion, #OOG-2022-003\_AO. The Advisory Opinion addressed whether DCRA's policy of charging document review fees to FOIA "other-use" requesters is permissible. The Director found that DCRA's actions are contrary to D.C. FOIA's allowable cost provision and recommended that DCRA revise its policies and practices.
- FOIA Advisory Opinion: FOIA- On June 29, 2022, the Director of Open Government issued Advisory Opinion # OOG-2022-004\_AO, concerning the backlog of administrative appeals under D.C. FOIA. The Director found no justification for the MOLC's no longer posting opinions on its website or in the District of Columbia Register.
- FOIA Advisory Opinion: On May 20, 2022, the Director of Open Government issued advisory opinion #OOG-2022-002\_AO, which found that the District of Columbia Department of Transportation violated D.C. FOIA's allowable cost provisions by improperly charging document review fees.
- OMA Complaint: On April 20, 2022, the Director dismissed OMA complaint #OOG-2021-0008-M concerning the Education Research Practice Partnership compliance with OMA. The complaint alleges that the Advisory Committee for the District of Columbia Education Research Practice Partnership planned to meet without public notice and enter in closed meeting without following OMA procedure. The Resolution of Complaint concludes that the Committee meetings were in compliance of OMA.
- OMA Complaint: The Director of Open Government issued an Advisory Opinion on March 29, 2022, in response to a February 9, 2022, Request for Reconsideration, Amended Complaint, and Prospective Complaint. On January 5, 2022, the Director dismissed

Complaint #OOG-2021-0007-M. This Resolution of Request for Reconsideration and Amended Complaint of #OOG-2021-0007-M concerning the Historic Preservation Review Board compliance with OMA concludes that the distribution of the HPRB's Record of Action Summaries would allegedly create a future OMA violation is without merit because the OMA does not require or regulate those summaries.

- FOIA Advisory Opinion (sua sponte): On March 16, 2022, the Director issued an advisory opinion regarding the District of Columbia's Officials' and employees' use of text messages to conduct the District's business clarifying that all text protocols potentially generate public records that are subject to D.C. FOIA.
- OMA Complaint: On March 15, 2022, the Director dismissed OMA complaint # OOG-2022-0002-M against the Committee of the Council of the District of Columbia. The complaint allegations regarded whether a right to testify before a committee was violated. The Resolution of Complaint discusses Section 404 of the OMA D.C. Code §2-574(1) and concluded that the Committee was not an established quorum as presently comprised, was not a "public body", and was therefore not subject to OMA.
- FOIA Advisory Opinion: On February 17, 2022, the Director issued an Advisory Opinion resolving complaint #OOG-2021-008-M regarding the District of Columbia's Online System for Managing and Processing Freedom of Information Act Requests. The AO concerns whether the District's use of technology meets the obligations of D.C. FOIA is effective.
- OMA Complaint: On February 2, 2022, the Director of Open Government issued an Advisory Opinion (AO) resolving Complaint #OOG-2021-0003-M that alleged the DC Housing Authority Board of Commissioners (DCHA) violated the OMA by improperly following emergency meeting procedures and meeting in closed session without providing the proper public notice. The AO discusses D.C. Official Code § 2-575(b) and D.C. Official Code § 2-577(d).
- OMA Complaint: On January 5, 2022, the Director of Open Government issued an AO resolving Complaint #OOG-2021-0007-M\_8.10.21, concerning the Historic Preservation Review Board's ("HPRB") compliance with the OMA. The complaint alleged the HPRB violated the "Record of meetings" provision because the HPRB's "Record of Action" summaries for its July 1, 2021, and July 24, 2021, public meetings differed from the findings and recommendations made during the public meetings. AO found that the Record of Action is a summary prepared by HPRB and is not required by the OMA.

- OMA Complaint: On January 4, 2022, the Director of Open Government issued an AO resolving Complaint #OOG-2021-0002-M\_4.30.21, concerning the District of Columbia Public Charter School Board's ("DC PCSB") compliance with the OMA. The Complaint concerned public meeting notices and records. The AO dismissed the Complaint and provided the rationale for the dismissal.
- FOIA Advisory Opinion: On November 2, 2021, the Office of Open Government (OOG) issued advisory opinion #OOG-002.10.18.21\_AO, concerning whether the personal privacy exemption under D.C. FOIA would apply to the request for transcripts of two University of the District of Columbia (UDC) faculty members. The Director concluded that the requestor failed to establish public interest in the disclosure determining that UDC was correct to withhold the transcripts from disclosure under Exemption 2.

48. How many inquiries and cases did BEGA receive in FY2022?

**Response:** In FY 2022, BEGA received 177 ethics complaints, which resulted in the initiation of 115 investigations.

- a. As a Board Member, do you get to comment directly on any cases? What is the Board Member's role in investigations and cases?

**Response:** BEGA's board members play several different roles in investigations of possible violations of the Code of Conduct. The Board may authorize a formal investigation and issuance of subpoenas if it finds reason to believe a violation of the Code of Conduct has occurred after the Director of Government Ethics presents evidence of a violation to the Board during or after conducting a preliminary investigation. If the Board approves a formal investigation, the Board may also disclose the identity of the individual who is the subject of the investigation if the Board finds that disclose would not harm the investigation.

After the initiation of a formal investigation by the Director of Government Ethics, the matter must be presented to the Board within 30 business days. If the Board concludes that there is reason to believe a violation of the Code of Conduct has occurred, the Board may authorize the issuance of subpoenas and decide whether to disclose the existence of the formal investigation.

The Board is authorized to dismiss, at any stage in the proceedings, any claim, complaint, request for investigation, investigation, or portion of an investigation that the Board concludes is without merit. The Board may choose to dismiss a preliminary or formal investigation if it concludes that insufficient evidence exists to support a reasonable belief that a violation has occurred.

Once the Board determines that there is reason to believe a violation has occurred, the Board shall conduct an open an adversarial hearing where the Director of Government Ethics presents evidence of the violation. After an open an adversarial hearing, the Board may issue a civil penalty, refer the matter to the prosecutorial authority with jurisdiction for enforcement or prosecution or dismiss the action. An open an adversarial hearing would not be required if the Board votes to dismiss the matter or approves a negotiated disposition to resolve the matter.

49. What recommendations for new legislation would BEGA make to improve District government ethics and accountability?

**Response:** As detailed its 2022 Best Practices Report submitted to the Mayor and the Council in December 2022, BEGA recommends that the District adopt a Comprehensive Code of Conduct (CCC) that would consolidate government ethics laws in one place and standardize the practices between the executive branch, independent agencies, and the Council, setting the same limits for gifts and the same rules for conflicts of interest, outside activity, post-employment restrictions, and financial disclosures. BEGA recommends that the CCC apply to all individuals who perform services for the District, including contractors, and explicitly state that Advisory Neighborhood Commissions are subject to the CCC.

As part of the revised CCC, BEGA recommends streamlining the financial disclosure system to use a bright line salary threshold to distinguish between whether individuals who are required to file financial disclosure statements should file a public or confidential disclosure. The recommendations for the revised CCC include changes to the Gifts Rule and exceptions to the Gifts Rule for attendance at widely attended gatherings along language to clarify restrictions under the nepotism statute. Proposed changes to the conflicts of interests rule would include new restrictions on providing professional services for compensation or affiliating with an entity that provides professional services for compensation as well as a requirement to report outside business activity or outside employment. Finally, BEGA proposes the expansion of the annual ethics training requirement from financial disclosure filers to all District officials.

The Best Practices Report also included a series of recommended changes to the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA) to make the District government more transparent and accessible to the public. BEGA recommends that the District consider privacy legislation, in line with the federal Privacy Act, that would provide an individual with the right to access their records through FOIA when those records are maintained by District agencies as well as considering data protection safeguards for records held by agencies. BEGA also recommends that the legislation that address the collection and retention of electronic records, text messages, and records produced using “ephemeral” applications. With respect to FOIA requests and appeals, BEGA recommends amending D.C. FOIA to extend the time for agencies to respond to FOIA requests and for the Mayor’s Office of Legal Counsel to respond to FOIA appeals.

BEGA also recommends legislative changes to bring Advisory Neighborhood Commission meetings under the requirements of the OMA and to allow the Office of Open Government to enforce the Advisory Neighborhood Commission Act's open meeting provisions. Given the success of temporary changes to the Open Meetings Act to allow public bodies to stream live/contemporaneous meetings, BEGA recommends permanent enactment of these provisions. BEGA believes that these changes would improve the District's ethics, open government, and transparency laws.

50. Please detail BEGA's intake process and tracking system for complaints.

- a. How many ethics complaints did the agency receive in FY22 and FY23, to date?
- b. Please break down the complaints by subject matter, if possible, as well as by length to reach and outcome of any resolution.
- c. Generally, how long does it take BEGA to resolve a complaint?
- d. How does BEGA communicate to the filer the status of their complaint?
- e. How many complaints are currently pending?
- f. How many complaints did OGE close out in FY22 and FY23, to date?
- g. How does BEGA close out a complaint? How is notice sent to the complainant that the matter has been closed?
- h. How many staff are responsible for investigating complaints?

**Response:** Complaints can be submitted online through the agency's website, via telephone, email, in-person or through mail. The complaint is then assessed to determine if the matters alleged fall within OGE's jurisdiction. This assessment is usually done when a complaint is initially reviewed, but research may be required in order to make a determination. OGE's policy is to dismiss non-ethics related complaints as soon as possible, and ideally, no later than within 30 days of receipt. If a complaint does not allege ethics violations, then the complaint will be dismissed. OGE will notify the complainant that the matter has been dismissed. If there are allegations in a complaint that would be better addressed by a different agency, OGE will refer the complaint to the appropriate agency(ies). If the complaint does allege ethics violations, then a preliminary or formal investigation is opened.

There are two types of investigations: preliminary and formal. According to D.C. Official Code § 1-1162.12(a), the Director of Government Ethics shall conduct a preliminary investigation of a possible violation of the Code of Conduct or of this subchapter brought to the attention of the Director or the Board through the following sources: the media, a tip received through the hotline, or documents filed with the Board. According to D.C. Official Code § 1-1162.13(a), a formal investigation shall be initiated upon receipt of a written, sworn complaint transmitted to the Board, a finding by the Office of the Inspector General or District of Columbia Auditor of waste, fraud, abuse of government resources, or a violation of the Code of Conduct; or a finding by a court of competent jurisdiction of liability in a civil proceeding, indictment, or information in a criminal proceeding with respect to acts or offenses that may constitute violations of the Code of Conduct or of this subchapter.

- a. How many ethics complaints did the agency receive in FY22 and FY23, to date?

In FY22, BEGA received 177 ethics complaints. In FY23, to date, BEGA has received 74 complaints.

- b. Please break down the complaints by subject matter, if possible, as well as by length to reach and outcome of any resolution.

See **EXHIBIT #9**; also BEGA's Quarterly Complaint Reports available at <https://bega.dc.gov/publication/bega-complaint-quarterly-summary-report-fy23-qrt-1>

- c. Generally, how long does it take BEGA to resolve a complaint? In accordance with OGE's key performance measures, OGE seeks to investigate and resolve investigations within 120 days. Cases may take longer depending on a number of factors especially during the public health crisis.
- d. How does BEGA communicate to the filer the status of their complaint? Upon submission of a complaint, OGE provides complainants with acknowledgement of receipt of their complaint and a tracking number associated with their complaint. If a complaint is submitted online, a tracking number is automatically generated upon submission. If a complaint is submitted through other means, a complainant will receive an email or letter acknowledging receipt of the complaint and providing a tracking number associated with the complaint. Consistent with OGE's obligation to protect the rights and reputations of public employees and officials, OGE generally does not provide status updates on investigations to complainants other than to confirm if a matter is still pending. OGE sends a disposition letter to a complainant after an investigation has been resolved.
- e. How many complaints are currently pending? BEGA currently has 54 open investigations.
- f. How many complaints did OGE close out in FY22 and FY23, to date? In FY22, BEGA closed 127 investigations and in FY23, to date, BEGA closed 43 investigations.
- g. How does BEGA close out a complaint? How is notice sent to the complainant that the matter has been closed? Once a preliminary investigation is conducted and no ethics allegations are found, a matter will be recommended for dismissal. A closing memorandum summarizing investigative activity is completed and reviewed by the Director. OGE will notify the complainant of a dismissal via letter. If evidence of an ethics violation is found, the complainant is sent notice of the disposition. If OGE's staff identifies allegations that relate to conduct outside of OGE's jurisdiction during the course of an investigation, the matter will be referred to the appropriate agency before closure. OGE will notify the complainant if it refers a matter to another District agency.
- h. How many staff are responsible for investigating complaints?

OGE's investigative team consists of three attorneys, three investigators, a supervisory investigator (newly funded position), supervisory attorney, and the general counsel.

- 51. Did BEGA receive any complaints from the public alleging Open Meetings Act ("OMA") violations in FY22 and FY23, to date?

**Response:** Yes, OOG adjudicated eleven (11) advisory opinions regarding the Open Meetings Act in FY22 and FY23, to date.

52. How many OMA complaint adjudications in total did BEGA complete in FY22 and FY23, to date?

**Response:** Yes, OOG adjudicated eleven (11) advisory opinions regarding the Open Meetings Act in FY22 and FY23, to date. One of the advisory opinions adjudicated was a request for reconsideration and response to an amended complaint.

The Office of Open Government's OMA complaint adjudicatory process is attached as [Exhibit #10](#).

53. How many OMA complaints did OOG receive in FY22 and FY23, to date, that public bodies failed to follow the modified public access rules?

- a. How many were sustained?
- b. Did the office receive any complaints about modified requirements of public access to meeting records?
- c. How many were sustained?

**Response:** OOG did not receive any complaints of public bodies failing to follow modified public access rules; however, in monitoring public body meetings an alleged violation was considered and clarified.

54. Did BEGA initiate any suits in Superior Court regarding the Open Meetings Act?

**Response:** BEGA did not initiate any suits in Superior Court.

55. Did BEGA issue any advisory opinions on the Open Meetings Act?

**Response:** Yes, OOG issued eleven (11) advisory opinions regarding the Open Meetings Act in FY22 and FY23, to date.

56. What is BEGA's protocol for referring complaints to other District agencies, such as the Office of Human Rights?

**Response:** OGE: If OGE identifies an issue that may be better addressed by another District agency, such as the Office of Human Rights, during complaint assessment or investigation, OGE will refer the matter to other District agenc(ies) as needed. The Director of Open Government or Director of Government Ethics will contact the Director of the agency BEGA seeks to refer the matter to, with a copy to the agency's general counsel. The referral is on agency letterhead and will detail the nature of the request along with the reason for the referral. If the agency's Director

or legal counsel accepts the referral, BEGA will then transfer the complaint and all relevant records in BEGA's possession to the agency.

57. Please detail the intake process and tracking system for requests for advice.

- a. How long does it generally take BEGA to respond to such requests?
- b. How does BEGA communicate to the requester the status of their request?
- c. How many staff are responsible for drafting these opinions?
- d. How many requests are currently pending?
- e. How many requests did BEGA respond to in FY22 and FY23, to date?

**Response:**

a. How long does it generally take BEGA to respond to such requests?

Although OGE's self-imposed performance measures require attorneys to respond to requests for ethics advice within 48 hours, our generally turn-around time is same-day within 1-8 hours. Attorneys confirm receipt of the request and requesters are encouraged to make the OGE attorney aware of any urgent time constraints on the request.

b. How does BEGA communicate to the requester the status of their request?

OGE attorneys generally respond to request for ethics advice same-day. If the request will not be complete same-day, the attorney will notify the requester of estimate time of response via email.

c. How many staff are responsible for drafting these opinions?

Only attorneys can provide ethics advice and respond to ethics requests. All attorneys at OGE respond to requests for ethics advice. Director Cooks, General Counsel Raj and Board Counsel Tran respond to ethics inquiries along with Supervisor Attorney Stewart-Mitchell and Attorney Advisors Echols and Jones.

d. How many requests are currently pending? None

e. How many requests did BEGA respond to in FY22 and FY23, to date?

58. How many requests for formal and informal advice regarding compliance with the OMA did BEGA receive in FY22 and FY23, to date?

**Response:** OOG has received one hundred and eighty-three (183) complaints from the public regarding the Open Meetings Act in FY22 and FY23, to date.

59. How does BEGA measure its success in resolving OMA complaints?

**Response:** OOG resolves most complaints OMA violations by issuing formal, binding advisory opinions. Success is the public body in question implementing our advice and undergoing training. We have only brought one action in Superior Court for an OMA violation. So, we view



our program as successful if we are providing education to public bodies that is extensive and frequent enough to avoid major violations that would warrant a lawsuit.

60. What is the typical timeframe of a case beginning with the investigation phase to the resolution?

**Response:** OGE: In accordance with OGE's key performance measures, OGE seeks to investigate and resolve investigations within 120 days. Cases may take longer depending on a number of factors.

**Response:** OOG: Generally, no case is typical. Cases based upon OMA complaints have proscribed timeframes built-in, such as the thirty (30) day period for a public body to respond with information to an inquiry. There is no such specific timeframe requirement in FOIA cases. Overall, some inquiries are resolved by dismissal or conciliation, and that usually occurs within 10-15 business days. A case that leads to an advisory opinion (A.O.) could take several months including discussion, investigation, legal research, and drafting. Two examples of extenuating circumstances are requests for extension from a public body, which is almost always granted, and multiple rounds of exchange of supplemental information to clarify an issue.

61. Does BEGA collect fines? If so, what are the general categories for the fines collected in FY2022?

**Response:** BEGA collects fines based on: the approval of a negotiated disposition as a result of an ethics rule violation; a ministerial fine issued by the Director of Government Ethics; an order issued by the Board after a hearing; financial disclosure statement late filer fees and non-filer fees; lobbyists registration fees; and lobbyists fines.

62. How many requests for formal and informal advice regarding compliance with FOIA did BEGA receive in FY22 and FY23, to date?

**Response:** In FY22 and FY23, to date, BEGA has received 164 requests for informal advice and 6 requests for a formal response (i.e., an advisory opinion).

63. What agency's FOIA processing was the focus of the most public complaints, concerns and inquiries for assistance in FY22 and FY23, to date?

**Response:** In FY22 and FY23, to date, the Department of Buildings, the Department of Licensing and Consumer Protection, and the Metropolitan Police Department receive the most requests and draw the most complaints, concerns, and inquiries.

64. What aspects of FOIA processing had the most public complaints in FY22 and FY23, to date?

**Response:** In FY22 and FY23, to date, the aspects of FOIA processing that had the most complaints are as follows:

(1) Delayed or absent agency responses – Requesters complain that agencies exceed the deadline to respond to FOIA requests.

(2) Search/review fees – Requesters complain that agencies charge unwarranted fees for FOIA requests.

(3) Timing of disposition of appeals – Requesters complained that appeals to the Mayor’s Office of Legal Counsel were not acknowledged and/or responses were slow or not received at all.

65. How does BEGA measure its success in processing FOIA complaints?

**Response:** Since OOG’s FOIA advisory opinions are not binding, success is the public body in question implementing our advice. We also view our program as successful because we receive follow-up requests for advice from agencies, which evidences that we have performed sufficient FOIA outreach through training.

66. How many requests for formal and informal advice regarding compliance with the Local Hatch Act did BEGA receive in FY22 and FY23, to date?

**Response:** Hatch Act was a hot topic during the last election cycle. During FY22 and FY23, OGE received 22 requests for advice regarding compliance with the Local Hatch Act. The inquiries ranged from individualized fact patterns to the definition of “political activity” and more.

67. How many ethics trainings did BEGA conduct in FY22 and FY23, to date? How many FOIA and OMA trainings?

**Response:** OOG: In FY22 and FY23, to date, OOG conducted 23 FOIA trainings and 18 OMA trainings.

a. How does BEGA measure the success of its training programs?

**Response:** OOG BEGA measures training success when OOG is able to provide FOIA Officers with a diverse training portfolio. We also look at a steady increase in number of attendees to our training and online views of the training that are visible on YouTube as positive measures of success. Positive feedback from stakeholders and trainees is also a measure of success.

**Response:** OGE conducted a total of 105 ethics trainings in FY22 and FY23. OGE conducted a general, hour-long ethics training on a monthly basis. The monthly ethics training schedule for the year can be found on our website. We also conducted agency and office specific trainings by request. We conducted an ethics training that was specifically created for board and commission members, every quarter; that schedule can be found on our website. We conducted monthly Hatch Act trainings during the last election cycle. And we conducted 13 ethics sessions during Ethics Week 2022.

OGE: OGE uses several metrics to measure training success. OGE monitors employee attendance. We monitor attendance numbers month-to-month and discuss the factors that might cause those numbers to fluctuate. OGE also measures successful training by the number of questions we receive during a training and the level of audience engagement. The more engaged attendees are the more likely they are to have retained information on the Code of Conduct. OGE also measures success by the amount of contact we have with attendees after training. When we receive multiple contacts after a training, we can infer that 1) attendees felt comfortable enough, after training, to contact us and 2) attendees had ethics on their mind after the training. After a training is conducted, we generally see an increase in requests for advice. We continue to encourage employees and public officials to contact us before they act. OGE also monitors survey feedback. After each monthly ethics training, we ask attendees to complete a survey. The survey asks attendees to either strongly agree, agree, remain neutral, disagree, or strongly disagree with the following statements:

1. The objective of the session was clear.
2. The instructor was knowledgeable about the subject matter.
3. The instructor made the course content understandable.
4. Overall, I would say this course was professionally beneficial.
5. What kinds of ethics trainings would you like to see?

68. Please describe any upgrades to the e-filing system that have occurred in FY22 and FY23, to date. What, if any, upgrades are outstanding?

- a. How can BEGA better communicate with filers about upcoming deadlines, requirements, and processes for filing in advance of deadlines?
- b. What improvements can BEGA make to smooth the financial disclosure process for filers?

**Response:** In FY2022, BEGA contracted with Abstract Evolutions to provide upgrades to the Financial Disclosure E-File System (FDS). Completed in April 2022, these upgrades consisted of:

- Improved Advisory Neighborhood Commission (ANC) filing experience by eliminating the questions ANC are not required to answer.
- Required E Signature and Certification
- Added functionality for uploading FDS filers, streamlining the process by giving BEGA staff the ability to add filers without OCTO.
- Improved search of Filers and those who have Not Filed.
- Added capability to message the Filers of their responsibility and reminder messages to those who have yet to file.

The upgrades went into production on April 28, 2022. BEGA has used the messaging for the Councilmembers' November filing and currently using the filer upload capabilities for the upcoming 2023 Financial Disclosure season.

a. How can BEGA better communicate with filers about upcoming deadlines, requirements, and processes for filing in advance of deadlines?

With the FDS System upgrades, BEGA can now easily identify filers and those who have not filed and send reminders to file before and throughout the filing period. In the past, BEGA has sent weekly reminders to filers however, the messaging upgrade will provide reminders to those have not filed ONLY.

b. What improvements can BEGA make to smooth the financial disclosure process for filers?

FDS functionality hinges largely on the operating system and internet browser used by the filer. BEGA already advises all filers that the system works in windows OS and with Google Chrome or Firefox. Additionally, the FDS Team is currently preparing a How-To video training to educate and assist filers in completing the task.

To further smooth the process, the FDS Team has identified two functionalities to aid filers. First, an FDS that uses the Lightweight Directory Access Protocol (LDAP) password should be expanded across all the DC email domains. While recent upgrades permit filers to reset their passwords and reduced the access failure rate by 90%, filer access for those with email domains other than @dc.gov remains the single largest issue. Currently, the FDS system reads the LDAP password from those with @dc.gov email addresses only. By expanding the LDAP capabilities across the 14 different domains used throughout the District, we could smooth the access process. Second, implement an FDS system that functions across ALL Operating platforms. As smartphones and tablets become more and more ubiquitous, it would be beneficial to have the FDS available on those platforms. Every FDS period, the FDS Team receives requests for assistance from employees who cannot access the FDS while using their personal phones or tablets. We have to explain that the system is limited to the Windows Operating System and by using Google Chrome or Firefox web browsers.

69. How many lobbyists are currently registered with BEGA?

- a. Out of the total number of registered lobbyists, how many filed their activity reports in January 2022, July 2022, and January 2023?
- b. Out of those who did not file or filed untimely, what penalties did BEGA assess?
- c. Of the total amount of penalties assessed, how much has been recovered? How does nonpayment affect a lobbyist's ability to lobby?
- d. How much did BEGA receive in lobbyist registration fees in FY22 and FY23, to date?

**Response:**

<u>Year</u>	<u># Lobbyists</u>
FY2022	339
FY2023*	279

\*= This number is as of February 15, 2023 while previous year is the full year.

- d. Out of the total number of registered lobbyists, how many filed their activity reports in January 2022, July 2022, and January 2023?

<u>Period</u>	<u>Lobbyists</u>	<u>Activity Reports Filed</u>
January 2022	339	469
July 2022	339	473
January 2023	279	464

- e. Out of those who did not file or filed untimely, what penalties did BEGA assess?

After identifying those who have filed untimely, BEGA is permitted to assess fines in the amount of \$10 per day late up to \$300 for each infraction. For lobbyists who have not filed BEGA is permitted to assess penalties of \$300 for each infraction and require the entity to register retroactively.

- f. Of the total amount of penalties assessed, how much has been recovered?

In CY 2022, BEGA assessed \$4990.00 in fines and late fees and to date has collected \$4140.00 and waived \$600.

How does nonpayment affect a lobbyist's ability to lobby?

Nonpayment/ failure to pay does not hinder a lobbyist's ability to lobby district government.

- g. How much did BEGA receive in lobbyist registration fees in FY22 and FY23, to date?

<u>Period</u>	<u>Amount Charged</u>	<u>Amount Received</u>
FY2022	\$ 113,850.00	\$ 113,850.00
FY2023	\$ 88,550.00	\$ 88,550.00

70. How does BEGA measure its success in tracking the total number of registered lobbyists, assessing penalties, and recovering penalties?

**Response:** BEGA is a compliance agency and the LRR Team measures success in achieving compliance through accurate and timely reporting. The LRR e-filing system tracks the total number of registered lobbyist, the date of their filing, and penalties. The Program Support Specialist and Auditor monitors the system for late filing penalties, and fine payments.

71. Please report on the implementation status of the Campaign Finance Reform Amendment Act of 2018 (L22-250) with respect to covered contractor contributions (D.C. Official Code § 1–1163.34a). What steps has the agency taken to date to operationalize this law and what continuing or new barriers exist that are hampering the law’s implementation?

**Response:**

BEGA does not administer or enforce the District’s campaign finance laws. While D.C. Official Code § 1–1163.34a is a subsection of the Ethics Act, it solely relates to the jurisdiction on the Office of Campaign Finance.

72. Please describe any upgrades to the lobbyist filing system that have occurred in FY22 and FY23, to date. What, if any, upgrades are outstanding?

- a. How can BEGA better communicate with filers about new requirements, processes, and deadlines?
- b. What improvements can BEGA make to the lobbyist filing process?

**Response:**

Since it’s going online in 2019, the LRR e-filing system has not had any upgrades or significant updates.

- a. How can BEGA better communicate with filers about new requirements, processes, and deadlines?

The LRR is limited in its functionality when it comes to communicating with lobbyists and their clients. To reach and communicate with the necessary parties, BEGA has to query the database searching for Active, Primary Persons of Contact and associated emails. BEGA does this quarterly to remind filers of the upcoming due dates and to announce the Lobbyist Training sessions.

The training occurs prior to reports’ due dates. BEGA staff meets with lobbyists and clients to remind them of DC Code requirements and provide a How To File session. Since BEGA started these training sessions, there has been a significant drop, 50%, in Support Tickets. Additionally, the training sessions have reduced the number of late filers thus resulting in compliance with DC Code requirements.

- b. What improvements can BEGA make to smooth the lobbyist filing process?

The LRR e-file system is not intuitive at all. To compound the issues, the system offers no tool tips for the end user. This all amounts to confusion and frustration when filers use the system.

What can BEGA do? We can continue to provide the trainings we are currently doing. Further, we can work with OCTO or an outside vendor to develop a system that will provide the end user with an easier product to use and provide BEGA better control over the information.

73. How does BEGA intend to make the content of lobbyist activity reports more publicly accessible, particularly for lobbyists' communications with public officials and their staff on contracts, procurements, grants, and legislation?

**Response:** When a lobbyist files, certifies, and submits an activity report, that report automatically publishes to <https://efiler.bega.dc.gov/LRRSearch> . When a lobbyist files, certifies, and submits a Registration, this too is automatically published on the website.

With regards to lobbyists' communications with DC Officials, the activity reports contain this information. If it is discovered that a report is faulty, then BEGA takes the necessary enforcement action to ensure that the correct information is provided in a timely manner.

74. Please provide an update on BEGA's upgrade to its case management system. Has this project been completed?

**Response:** There were no upgrades to the case management system.

75. Please describe any symposia held by the agency in FY22 and FY23, to date. What symposia, if any, does the agency plan to hold in the remainder of FY23 and in FY24?

**Response:**

- a. Ethics Week 2022, "Ethics in Practice," which was held in October 2022, was attended by approximately 500 District employees. The week-long conference was comprised of 13 courses which included a fireside chat with government ethics leaders and a CLE-accredited legal ethics course. Both OGE and OOG presented programs on the operations of their respective offices and conducted courses designed to educate employees on ethics rules, including real life ethics scenarios and open government issues they need to be aware of in their day-to-day work for the District. OGE presented programs such as "Unlocking the Positive Value of Ethics" (198 attendees), "Being Ethical is Harder Than You Think!" (120 attendees), "BEGA Investigations" (112 attendees), "Financial Disclosure" (102 attendees) and "Ask BEGA" (97 attendees). OOG, meanwhile conducted trainings on the "Open Meetings Act" (91 attendees) and "Introduction to OOG Director and FOIA Course" (89 attendees). BEGA Board Member Darrin Sobin joined an Ethics Week panel of experts on the "Future of Government Ethics" which attracted 67 attendees. Ethics Week was positively received by attendees and BEGA was able to engage with organizations working on ethics and open government issues while educating District employees.

- b. Ethics Week is an annual conference. We will hold Ethics Week again in October 2023, during either the first or second week of October. We will begin Ethics Week planning in July.
- c. In FY22, OOG co-sponsored the “Digging Into DC” series of forums aimed at educating the public on open government issues with the DC Open Government Coalition and the DC Library Association. During BEGA’s “Ethics Week” OOG offered Parliamentary Procedure training with guest speaker, Robert’s Rules of Order expert, Susan Leahy – Ethics Week 22 Parliamentary Procedure.

76. How has BEGA enhanced its public outreach efforts?

**Response:**

BEGA Board: The Board has continued to hold monthly meetings remotely via Webex. The public is able to provide written comments to the Board, which the Board reviews and incorporates into its meeting minutes. Board members have also made themselves available via e-mail and telephone, to address the public’s concerns. Where appropriate, the Board relays these concerns to the Director of Open Government and the Director of Government Ethics for resolution.

OGE: In FY22 and FY23, BEGA continued to update its website to make the site more user-friendly. In addition, OGE has continued to publish its bi-monthly newsletter, “Ethically Speaking,” providing an update on the work of the office. OGE has also continued its outreach to non-governmental organizations working in the areas of governmental ethics, financial disclosure, and lobbying. As part of its outreach efforts, OGE consulted with the Campaign Legal Center on improvements to its website and is working to implement these changes. OGE has also consulted with other non-profit organizations such as the Brennan Center for Justice, Common Cause, and Public Citizen in connection with its annual Best Practices Report and recommendations for legislative changes to the District’s ethics laws. With respect to its lobbying program, OGE consulted with the regulated community to solicit input on how to make the registration and reporting system more user-friendly as well as with the Office of the Secretary of the Senate on best practices from the federal lobbying disclosure program.

OOG: The Office continued its efforts to collaborate with and receive feedback from non-governmental organizations with expertise in open government matters, such as the District of Columbia Open Government Coalition, to remain current on issues that are of interest and concern to the public. OOG participated in the DC Open Government Coalition’s Sunshine Week summit in FY22 to present on open government issues and plans to participate in this event again in FY23 as part of BEGA’s outreach efforts. In FY22, OOG redesigned its newsletter, “The OpenGovist,” which provides information on government transparency and has continued to issue the newsletter on a biannual basis. In FY23, OOG also utilized its social media accounts to provide shorter content to attract new users and subscribers and communicate its message of the importance of open government. View examples of that new content here:

<https://www.youtube.com/shorts/RX8GZ6cWQQ8>



<https://www.youtube.com/shorts/507MB2jlu78>

BEGA is redesigning its website to better inform the public of the Office of Open Government's mission, functions, and goals. The new website will house OOG's advisory opinions and legal advice memoranda in a database that is more user-friendly. OOG aims to have that website continue to receive OMA and FOIA complaints to better serve the public.

OOG released the first issue of its relaunched newsletter in FY23, with the goal of improving its currency and relevance. It is publicly available on our website and our Twitter account. The latest edition is here: [The Opengovist Newsletter](#)

77. Please describe the agency's effort to assist public bodies with OMA compliance.

**Response:** OOG's legal staff attends remote public body meetings on a weekly basis to monitor OMA compliance. They also check meeting notices to determine if the public is properly informed of the meeting and have sufficient details available to enable the public to attend. If these details are not properly displayed online, then OOG will take corrective action. The OOG attorneys are empowered to issue a warning letter to public bodies, on behalf of the Director, if they observe an OMA violation.

OOG has released an OMA compliance checklist to assist public bodies with conducting meetings that comply with the OMA requirements. [OMA Compliance Checklist](#)

OOG conducts regular training webinars for public bodies and the DC government staff members that assist them with conducting their meetings. We launched the Parliamentary Procedure Training Portal, which contains information on the OMA as well with guidance on how to conduct effective meetings. We have also published many of our training sessions on our website and YouTube.

78. Does BEGA have a specific staff member assigned to issues relating to the Council? When was the last time OGE trained Council staff or Councilmembers?

**Response:** OGE: OGE recently hired a new attorney who will be specifically assigned to the Council and legislation matters. The FDS Attorney is in regular contact with the Council's Office of the General Counsel and Council Chiefs of Staff regarding financial disclosure matters.

79. Please provide the Committee with an update on BEGA's transition to a new office space.

**Response:** BEGA is actively engaging with DGS, OCTO and the construction team on a weekly basis. The office space is scheduled to be completed before the end of FY23.