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**Statement of
Robert S. Becker**

**On behalf of the D.C. Open Government Coalition
April 13, 2018**

**Before the Committee on the Judiciary and Public Safety
Council of the District of Columbia**

**Budget Oversight Hearing – Board of Ethics and Government Accountability,
Office of Open Government**

I am Robert Becker, the D.C. Open Government Coalition’s government relations chair, and I want to thank you for inviting us to testify today regarding the Office of Open Government’s (OOG) budget for fiscal year 2019. We ask that you reject the mayor’s proposal to cut the OOG’s budget 16 percent. We further ask that you amend the Budget Support Act to remove the OOG from the Board of Ethics and Government Accountability (BEGA) and create a new Office of Open Government Board (OOGB) to oversee the Office’s operations.

It is only mid-April, 3½ months into 2018, and BEGA has taken two actions that will seriously weaken the OOG specifically and D.C. government transparency generally. First it refused to re-appoint OOG Director Traci Hughes when her term expires next week.¹ Second, it is asking the Council to cut \$88,000 from the Office’s FY 2019 budget and redirect those funds to the Office of Government Ethics (OGE). It has already queued up another detrimental action, redrafting the OOG director job description in a manner that will take away the operational independence the Council intended the Office to have.

We are here today to ask you to stop this dramatic, rapid weakening of a vitally important transparency institution in the District. If you truly believe that transparency is essential to preserving public trust in government, please remove the OOG from BEGA. If you are truly

¹ In apparent contravention of D.C. Code § 2-594(b), BEGA has informed Ms. Hughes that it will appoint an interim director to replace her on April 23 if it has not yet appointed a new permanent OOG director. The statute says, “[t]he Director may be reappointed and, if not reappointed, *the Director shall serve until his successor has been confirmed.*” (emphasis added).

committed to ensuring that D.C. residents have access to public body meetings and records, please create a board made up of transparency experts to oversee the OOG.

As we told you in the BEGA performance oversight hearing several weeks ago, the OOG has excelled in the past year. Despite successful efforts to bring several public bodies into Open Meetings Act (OMA) compliance — among them the United Medical Center (UMC) board, the Mayor’s Advisory Commission on Caribbean Community Affairs (MACCCA) and the Commission on Selection and Tenure of Administrative Law Judges (COST) — BEGA will replace the OOG director. When asked in that hearing why BEGA refused to re-appoint Ms. Hughes, Chair Tameka Collier failed to offer a satisfactory explanation.

With this budget request, BEGA is being no more forthcoming. To begin with, last year this Committee recommended and the Council approved “a new subtitle for inclusion in the Fiscal Year 2018 Budget Support Act ... [that] would provide the Office of Open Government with independent budget authority from the Office of Government Ethics. The Committee believes that the two should be co-equal.” REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY ON THE FISCAL YEAR 2018 BUDGET FOR AGENCIES UNDER ITS PURVIEW, 54 (May 18, 2017). Ms. Hughes asked for the same level of funding in FY 2019 as the OOG received in FY 2018. The board did not consult her further before proposing a significant reduction in the OOG budget.

In short, the board showed a lack of regard for the Council’s decision to make the OOG operationally independent of BEGA, and its budget proposal upped the ante by showing the same lack of regard for the Council’s decision to put the OOG on an equal footing with the OGE. The Council should not permitted the board, where it lacks authority or disagrees with statutory limitation on its authority, simply to ignore clear legislative decisions.

BEGA wants to cut OOG funding to boost ethics office resources

BEGA’s “proposed FY 2019 gross budget is \$2,366,172, which represents a 1.6 percent increase over its FY 2018 approved gross budget of \$2,328,719.” FY 2019 PROPOSED BUDGET AND FINANCIAL PLAN, A-252. The budget narrative explains,

Agency Request – Increase: ... In Special Purpose Revenue funds, the budget proposal includes an increase of \$88,394 and 1.0 Full-Time position that was shifted from the Local funds budget to support the agency’s lobbying activities....

Agency Request – Decrease: ... Another net reduction of \$66,374, primarily in the Office of Open Government program, consists of an offsetting increase of \$25,655 for salary step increases and a reduction of \$92,029 and 1.0 FTE being shifted to the Special Purpose Revenue funding source. In Special Purpose Revenue funds, the budget proposal reflects a decrease of \$88,394 in nonpersonal services within the Board of Ethics program for Other Services and Charges. This decrease enables the agency to support an additional position within the personal services budget.

Id. at A-253. BEGA wants you to believe it merely is shifting one FTE from the OOG to the OGE.

The accompanying budget tables tell you the OOG has four FTEs in FY 2018 and the OGE has 12.5 FTEs. *Id.* Table AG0-4, A-251. What the narrative does not tell you is that the proposed \$88,000 cut in the OOG budget is a real funding cut, not a transfer of one FTE, because the OOG has never had more than three FTEs — the director, an attorney advisor and an IT specialist.

BEGA is following a pattern begun in 2014, proposing cuts in the OOG's funding to grow the OGE, but this is the biggest cut yet.

The Council should fully fund the OOG and create the Open Office of Open Government Board

Last year, Ms. Hughes proposed a Budget Support Act amendment that would reinforce the Office's independence by creating a three-member board specifically focused on government transparency. That board would oversee the OOG as BEGA oversees the OGE. It would select the OOG director, evaluate the director's performance,² and hear appeals from OOG decisions under the FOI Act and OMA.

This amendment would be a major improvement. One important reason is that OOGB members would have extensive transparency experience. In addition, the amendment would codify current practice by requiring that the OOG director be a lawyer.

We urge the Council to amend the Budget Support Act to incorporate these changes; and to appropriate funds in addition to the \$553,000 allocated in FY 2018 for office space, an administrative staff member, and stipends for OOGB members.

We look forward to working with you through the budget cycle. We ask the Committee as well to schedule a hearing after the budget is completed on the Strengthening Government Transparency Amendment Act of 2017, Bill 22-788.

Thank you.

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² Although BEGA is charged with hiring the OOG director, it currently does not have line supervision over the person in that position. For purposes of performance evaluation and recommendation for advancement, Ms. Hughes is under the Executive Office of the Mayor.