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**Testimony of the**

**D.C. Open Government Coalition**

by

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Before the

Council of the District of Columbia, Committee on Government Operations & Facilities

FY 21 Performance Oversight – Office of the Chief Technology Officer

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Thank you for the opportunity to provide views on the performance of the Office of the Chief Technology Officer (OCTO).

Many citizens welcome D.C. government services delivered with the help of virtual access (and expanding access to reach the full community is an enduring goal). For example, in recent days I quickly showed a restaurant my vaccination status using a central D.C. Department of Health [portal](https://vaccinerecord.dc.gov/); attended a court hearing, filed a legal brief and gave testimony, all online; and settled a property tax issue online at [MyTax](https://mytax.dc.gov/_/)DC. OCTO probably helped make all this happen.

On top of these routines, the COVID-19 pandemic put staggering new demands on technology everywhere. We can only imagine the OCTO workload, as government and the public suddenly wanted to do everything remotely, and wanted instant help with troubleshooting. That meant upgrading infrastructure, distributing equipment, and training lay people in unfamiliar electronic tools and software for staff remote work, data gathering and meetings, citizen contact, and managing complex new benefits.

Our focus today is on one small part of the OCTO responsibility, the FOIAXpress request portal. It’s used by thousands to submit requests for public records that are available, with very limited exceptions, as a legal right under the D.C. Freedom of Information Act (FOIA), and by staff to track and fulfill those requests. Efficient access to the government in this form, public records, is one way government builds trust and elicits informed participation.

All is not well at the portal. Our Coalition has been concerned about that for years, from our own experience, comments we hear in our community training sessions, and from users with problems who contact us. We have testified on the problems of the system and made a formal complaint.[[1]](#endnote-1) We have offered repeatedly to help collect user views through surveys or focus groups to guide improvement—and never been asked. And little in the user aspects of the portal design and functionality has changed. Its use for management is uncertain as well. We have asked for data the portal system was in part created to provide and been denied on the impossible grounds the office had no such data.[[2]](#endnote-2) We appealed and heard nothing further.[[3]](#endnote-3) The sole report the Council requires on FOIA each year is routinely delayed because of hand data-assembly needed, as the portal data is incomplete and agencies must be surveyed. And the portal costs a bundle--the last three-year contract was for $750,000.

We conclude:

* The portal software serves neither the public nor the government well
* Inattention to evaluation and improvement show it is low priority for management
* Council attention is needed to reverse this

We believe from this, and other examples spread across other programs, the time has come for the Council dramatically to raise the profile of issues in the District government’s electronic service delivery.

A well-functioning government builds public trust. Yet in the case of public records requests where efficient and effective delivery of requests could encourages citizen participation in government, our experience with user problems suggests the D.C. technology agency doesn't prioritize that goal.

We suggest, instead of seeking change in OCTO (where we’ve heard repeatedly “it’s not our job to help people; that’s for agencies”), that it’s time to establish a formal part of the executive that is not a technology agency but would be a new focal point to emphasize the customers who use it. A recent White House order called for similar fresh thinking across the federal sector to improve people’s experience of government, and laid out what that will mean for dozens of agencies.[[4]](#endnote-4) That order spoke this way in calling for a new perspective that is exactly what we have found missing in OCTO’s treatment of the FOIAXpress portal and its users:

Management of [the government’s] customer experience and service delivery should be driven fundamentally by the voice of the customer through human-centered design methodologies; empirical customer research; an understanding of behavioral science and user testing, especially for digital services; and other mechanisms of engagement.

It is time for a new expectation, again quoting apt language from the White House, that D.C. “agencies that provide significant services directly to the public will identify and gather feedback from customers; establish service standards and measure performance against those standards; and benchmark customer service performance against the best customer experience provided in the private sector.”

We emphasize electronic service delivery as that is the concern today, but of course other barriers will need attention including laws, regulations, budgets and business processes. The key need is for an orientation to systematically identifying and resolving the root causes of customer experience challenges. We urge it today for electronic services, but such a mind-set should be welcomed in many D.C. agencies interacting with the public in diverse ways.

To redirect the approach to electronic services like FOIA request processing, we recommend proceeding in two stages:

1. Hold a roundtable, first with public and government witnesses together with experts in web-based interfaces, to set an agenda of FOIA improvement including not only the portal but agency request processing, FOIA officer training, and appeals and enforcement -- in short to explore the shape of the next generation of digital public records request management. Then, repeat the roundtable focused on other agencies that interact digitally with customers.
2. Draw on the roundtables’ results to draft a charter for establishment of an Office of Electronic Government. It would be tasked to develop standards for D.C. government agencies’ handling of common challenges such as login and identity management, web site designs and accessibility, notifications, and systematic evaluation of users’ experiences using a range of methods. The office should also design requirements for regular reporting from agencies so that the executive branch can designate each year electronic services to the public in greatest need of improvement. Finally, the office should propose additions to agency performance plans and personnel rules so that both the plans and executives’ evaluations include attention to results in improving users’ experience with electronic access to government services.

The Coalition looks forward to working with the committee to design an improved approach within the government so that user perspectives inform the design of systems—precisely what we have found missing in the OCTO treatment of the FOIA portal.

The Open Government Coalition is a citizens’ group established in 2009 to enhance public access to government information and ensure the transparency of D.C. government operations. Transparency promotes civic engagement and is critical to responsive and accountable government. We strive to improve the processes by which the public gains access to government records (including data) and proceedings, and to educate the public and government officials about the principles and benefits of open government in a democratic society.

We work to maintain the legal foundation assuring open government –- the Open Meetings Act, the Freedom of Information Act and the mayor’s Open Data Policy — through public education, legislative advocacy, and litigation. For example, the Coalition has an extensive website with practical advice for finding information and a blog on news, holds public forums such as an annual Summit during Sunshine Week in March, testifies to the D.C. Council, and files complaints and court actions to correct agency problems. The Coalition has no staff but does its work through the volunteer efforts of 16 directors, who include reporters, community activists, experts with open government institutions overseas and at the federal level, and attorneys in media law, nonprofit legal services, and criminal defense. The Coalition participates in a National Freedom of Information Coalition where advocates from dozens of states work together on common issues all are facing.

1. ENDNOTES

 The kinds of problems users encounter include access to only some, not all, D.C. agencies (and no assistance finding the rest); an ill-designed submission form lacking explanations of mysterious items and that without warning times out and destroys incomplete work; and site functions that don’t deliver (for example, status messages stuck for months on “in progress” as deadlines are long past; a reading room promising easy access to past requests yet that has no records on file; and a “help” tab offering only computer gibberish and no real help). See our 2019 testimony: <https://dcogc.org/wp-content/uploads/2019/11/Coalition-OCTO-testimony-2-29-19.docx>. And see our 2021 complaint to Office of Open Government: <https://dcogc.org/wp-content/uploads/2022/02/Portal-complaint-8-9-21.docx>. [↑](#endnote-ref-1)
2. See OCTO data denial: <https://dcogc.org/wp-content/uploads/2022/02/OCTO-FOIA-denial.pdf>. [↑](#endnote-ref-2)
3. See Coalition appeal: <https://dcogc.org/wp-content/uploads/2022/02/FOIA-appeal-OCTO-request.doc>. [↑](#endnote-ref-3)
4. *Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government* (The White House, December 13, 2021). Available at: <https://tinyurl.com/yjy9avw9>. [↑](#endnote-ref-4)