March 15, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Gene Dodaro  
Comptroller General  
United States Government Accountability Office  
441 G Street, NW  
Washington, DC 20226

Dear Comptroller Dodaro:

This week marks the sixteenth anniversary of Sunshine Week. Sunshine Week coincides with the birthday of James Madison, considered the father of open government, and has grown into an enduring initiative to promote open government. Central to this celebration is the Freedom of Information Act (“FOIA”), which creates accountability for the federal government and keeps citizens informed of its operations, both of which are vital to the functioning of our democratic society.

The Government Accountability Office (“GAO”) plays an essential role in monitoring the federal government’s compliance with FOIA, and we applaud GAO’s two recent reports examining compliance with FOIA and the FOIA Improvement Act of 2016. We request GAO continue its work in this field by examining the impact of the SARS-COV-2 (“COVID-19”) pandemic on FOIA processes and procedures.

As you are aware, the Senate Judiciary Committee has jurisdiction over FOIA. Compliance with FOIA, including its 2016 amendments, is mandatory for all federal agencies, even during unforeseen circumstances. As strong supporters of government transparency, we are concerned these obligations are not being met. For example, according to a May 2020 Department of Justice (“DOJ”) report, COVID-19 impacts affected FOIA processing government-wide, as many agencies have had limited ability to retrieve or process FOIA requests during the pandemic. The DOJ reported that due to staffing and technology limitations, many agencies faced challenges at various stages of the FOIA process, ranging from accepting requests to conducting searches, processing certain types of records, and providing final responses.

These issues compound the preexisting challenges that agencies face in processing the hundreds

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3 Id.
of thousands of FOIA requests they receive each year in a timely manner, even following the 
passage of the FOIA Improvement Act of 2016.\textsuperscript{4} According to a March 2020 GAO report, from 
fiscal year 2021 to 2018, agencies reported the number of FOIA requests received increased over 
30 percent and backlogs increased over 80 percent.\textsuperscript{5}

To assist the Committee in better understanding the impact of the COVID-19 pandemic on 
agencies’ compliance with FOIA, please provide a written response to the following questions no 
later than June 30, 2021.

1. How has the volume and timeliness of FOIA requests and appeals processing, and the 
size of FOIA backlogs, changed during the COVID-19 pandemic?

2. What specific challenges have agencies faced in meeting their FOIA obligations during 
the COVID-19 pandemic?

3. What are the effects of delays in FOIA processing on agencies’ assessment of FOIA fees?

4. What recent changes have agencies made during the COVID-19 pandemic, including 
operational efficiencies?

5. What are agency plans for reducing any FOIA backlogs as a result of the COVID-19 
pandemic?

6. What, if any, guidance or other resources have the Department of Justice, Office of 
Information Policy and the National Archives and Records Administration, or Office of 
Government Information Services provided to help agencies with FOIA operations and 
planning during and following the pandemic?

7. Other than appropriating additional funds, what steps can Congress take to assist agencies 
with meeting their FOIA obligations in a timely fashion?

Thank you for your prompt attention to this important matter. If you have any questions, please 
contact Kristina Sesek of Ranking Member Grassley’s staff at (202) 224-5225, Sara Zdeb of 
Chair Durbin’s staff at (202) 224-7703, Rajiv Venkataramanan of Senator Leahy’s staff at (202) 
224-4242, or Franci Rooney of Senator Cornyn’s staff at (202) 224-7840.

Sincerely,


\textsuperscript{5} Id.
Charles E. Grassley
Ranking Member
Committee on the Judiciary

Richard J. Durbin
Chair
Committee on the Judiciary

John Cornyn
United States Senator

Patrick Leahy
United States Senator