

### **Question to OGIS**

- Under exemption 5, a pre-decisional document does not lose its protection after the decision is made unless the agency incorporates the pre-decisional information into its final decision, either expressly or by reference. Nevertheless, establishing that the pre-decisional document was actually incorporated into a final decision can be a difficult hurdle for a requester. Do you think that modifying this exemption so that pre-decisional documents lose the protection post decision is an effective and responsible way to address the lackluster speed with which some agencies process FOIA requests?

**Response:** Given our experience providing mediation services to thousands of requesters since 2009, we observe that there is a wide variety in the kinds of records held by each agency and that every request is different. It is hard to judge what the net effect of this proposal would be on the speed of processing because it would have to be reviewed on a case-by-case basis. OGIS is not in a position to comment about the effects of such a modification.

Regarding the speed with which agencies process FOIA requests, we have observed that customer service is crucial to the FOIA process and can often streamline the process by making it more transparent and understandable and setting customer expectations. Good customer service, a crucial aspect of effective communication skills, can also help avoid misunderstandings about fee issues and/or the scope of a request. We provide training that improves FOIA professionals' communications skills and work with agencies through our mediation and review programs to help ensure that customer service improvements in the law are applied.