

# 2022

## Annual Report

**OFCCP OMBUDS SERVICE**



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## I. Introduction

The OFCCP Ombuds Service was established in 2019 to enhance agency communication with external stakeholders and facilitate the fair and equitable resolution of issues and concerns. Three years after opening its doors, the Ombuds Service remains a conflict management resource available to all agency stakeholders including workers, worker rights groups, federal contractors and subcontractors, contractor representatives, compliance groups, and OFCCP staff.

Internal ombuds programs offer neutral assistance with organizational workplace matters and are perhaps more common than external programs like the Ombuds Service. While many external ombuds practice the classical (conduct investigations, issue findings) or advocate (represent particular populations) models, the OFCCP Ombuds is an external organizational ombuds, envisioning an inclusive and collaborative OFCCP where all stakeholders are empowered to manage and resolve conflict as early and efficiently as possible. The mission of the Ombuds Service is to provide an impartial and independent perspective while delivering an informal and, to the extent permitted by law, confidential resource, assisting parties to communicate effectively and achieve fair, mutually acceptable solutions. An organizational ombuds does this by serving three essential functions: problem identification and neutral assistance to individuals and groups; organizational trend analyses; and the promotion of wider conflict competence across the agency.

This report is part of an annual tradition of the Ombuds Service. A unique opportunity presents itself at the conclusion of each fiscal year; a chance to pause, review, and reflect. As such, this report will serve as an introduction (to some) and a reminder (to others) of the Standards of Practice, or the pillars of the program that allow the Ombuds to function ethically and effectively. Those four principles must be adhered to with every step the Ombuds takes towards accomplishing the three vital functions. *Section II. OFCCP Ombuds Service in Practice* will elaborate on how those standards work, practically speaking. It will also highlight some of the resolution techniques used by the Ombuds within the problem identification and neutral assistance function. *Section III. Referrals by the Numbers* presents statistics on how many referrals (or inquiries, cases, requests for assistance, etc.) the Ombuds Service received, when they were received, who initiated them, and the frequency of resolution techniques utilized while handling those referrals. *Section IV. Issues Analysis* delves into the second essential function of an organizational ombuds, as it takes a look at the number of primary issues (what drove someone to make contact) and secondary issues (underlying and/or contribute to the primary issue), and then examines the patterns suggested and conclusions that can be drawn by the data. The third essential function of an organizational ombuds is addressed in *Section V. Reach of the Ombuds Service* with a summary of internal and external engagement conducted, along with how the program has been received based on evaluations and feedback collected. The report concludes with *Section VI. What the Future Holds* by looking ahead at what's anticipated during the next fiscal year, and *Section VII. Resources and References*, containing additional reading and supporting materials.

The Ombuds Service is delighted to share in this opportunity to learn, improve, and evolve, and is pleased to present its third Annual Report.

## II. The Ombuds Service in Practice

In last year's report, this section focused on ways of initiating contact and engaging with the Ombuds Service and set expectations about what coordination with the Ombuds might entail. With questions about any of these topics, readers are encouraged to reference Section II of the 2021 Annual Report,<sup>1</sup> visit the Ombuds Service landing page of the OFCCP website,<sup>2</sup> or reach out to the Ombuds directly. The current focus will be on the Standards of Practice central to the program, and the Resolution Techniques most frequently utilized by the Ombuds Service.

### STANDARDS OF PRACTICE

Before deciding to initiate contact, people often wonder how information is shared and what type of authority the Ombuds has. The best way to address these and many other questions is to review the four foundational cornerstones of organizational ombuds practice, which together serve multiple purposes. They are the groundwork upon which initial discomforts about working with an ombuds can be addressed, and a code of ethics for the ombuds community to ensure consistency across the field. Perhaps most important, they enhance the overall effectiveness of practitioners, allowing ombuds to function as a system of conflict prevention, management, and resolution unique to other offices in the organization. Adopted in accordance with the International Ombuds Association (IOA)<sup>3</sup> and the Coalition of Federal Ombudsman (COFO),<sup>4</sup> the OFCCP Ombuds Service abides by the following Standards of Practice.

#### **FIGURE 1. Standards of Practice Explained**

A summary of the Standards of Practice employed by the Ombuds Service.

STANDARDS OF PRACTICE	EXPLANATION
Confidentiality	To foster a sense of security and trust, the Ombuds assures confidentiality consistent with federal law. Identifying information is not disclosed outside of the Ombuds Service unless 1) an individual requests or authorizes the Ombuds to disclose, 2) the information is publicly known or in the public domain prior to the time of disclosure, and/or 3) the Ombuds considers there to be imminent risk of serious harm. The Ombuds uses a high level of discretion to handle what is often sensitive information.
Impartiality	As a neutral third party, the Ombuds does not represent or advocate for anyone within or outside of OFCCP, and neither during nor after the handling of a referral. The Ombuds holds no vested interest in the outcomes of resolution processes and does not take sides, direct outcomes in favor of any one person or organization, or allow former and/or current working relationships to influence actions. No matter who the parties are, the Ombuds speaks, listens, and operates nonjudgmentally.
Independence	The Ombuds Service is not aligned with other divisions, work teams, or business units of the agency in order to preserve impartiality, and to allow the Ombuds to move unimpeded within the agency while completing tasks in line with all three of the organizational ombuds essential functions. This type of firewall enables the Ombuds to operate with a necessary degree of discretion free from outside control or influence, act as an early warning system, and serve as a catalyst for change.
Informality	The services provided by the Ombuds are a voluntary alternative to more formal channels. The Ombuds Service partners neutrally and collaboratively with individuals and organizations, allowing them the self-determination to remain actively in control of decision-making processes. When people elect to work with the Ombuds, they accept that the Ombuds is not authorized to receive notice of claims and is not a mandated reporter within the Department of Labor (DOL).

## RESOLUTION TECHNIQUES

As described in *Section I. Introduction*, the first of three vital ombuds functions is problem identification and assistance or, in other words, the handling of individual referrals. There are a number of techniques that can be drawn upon when someone from within or outside of OFCCP contacts the Ombuds. Services range from one-on-one work with a referral source to more inclusive and facilitative methods with other involved parties, and sometimes larger scale groupwork.

**FIGURE 2. Resolution Techniques Explained**

An overview of the resolution mechanisms most frequently utilized by the Ombuds Service.

RESOLUTION TECHNIQUES	EXPLANATION
Individual Consultation	Private, one-on-one conversations between a referral source and the Ombuds. During individual consultation, services range from active listening and option exploration to a more formulaic approach like conflict coaching.
Shuttle Diplomacy	People often find it difficult speaking or listening to someone with whom they disagree. For this reason, facilitative efforts typically begin with shuttle diplomacy, or the process of using a neutral third party to relay messages back and forth, and may remain that way through the duration of a referral.
Facilitated Dialogue	If there comes a time when the Ombuds believes parties could successfully engage in more direct communication, and the parties are willing to do so, a facilitated dialogue might be held. Parties would have the opportunity to share and understand each other’s perspectives, and the Ombuds would act as a neutral facilitator largely focused on ensuring the conversation is productive.
Mediation	Mediation, like facilitated dialogue, allows parties the opportunity to engage using the facilitation skills of an impartial third party. Mediation though typically consists of joint (everyone together) and private (conversations with only the Ombuds) sessions. The Ombuds uses a facilitative style of mediation, encouraging parties to decide their own outcomes.

In keeping with the Standards of Practice, particularly impartiality and informality, it is important that the processes selected work for everyone involved. As such, resolution techniques are optional and never unilaterally imposed by the Ombuds. The Ombuds recommends one or more techniques depending on the stage, size, and scope of the conflict, but will generally consider parties’ process requests.

## III. Referrals by the Numbers

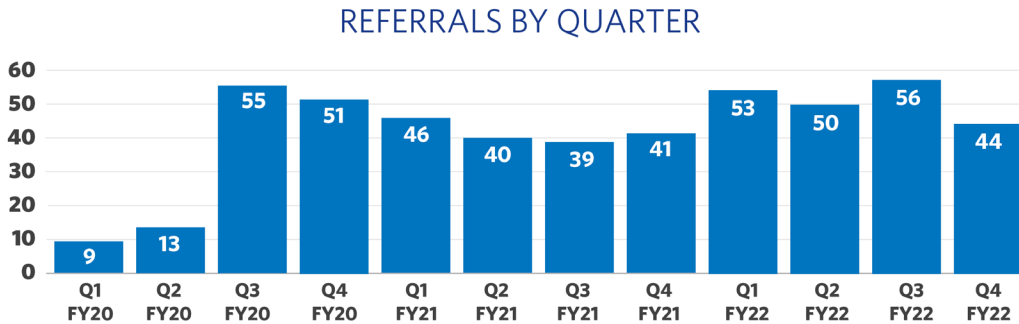
To accomplish the second essential function of an ombuds, organizational trend analyses, data collection and review is imperative. Metrics are kept in a confidential database (available only to the Ombuds Service) covering the number of referrals received, who initiated those referrals, and the issues for which people most frequently made contact. The Ombuds shares these data internally (by relaying feedback upward with the highest levels of OFCCP senior leadership) and externally (through this report and other forums described later in Section V), but always in the spirit of transparency and without attribution to specific individuals or groups. This section will present the data, while Section IV begins to interpret it through a trend analysis.

**QUARTERLY AND ANNUAL BREAKDOWN**

Tracking the date upon which a referral is received allows the Ombuds to monitor the natural flow of referrals on a monthly, quarterly, and annual basis.

**FIGURE 3. Referrals by Quarter**

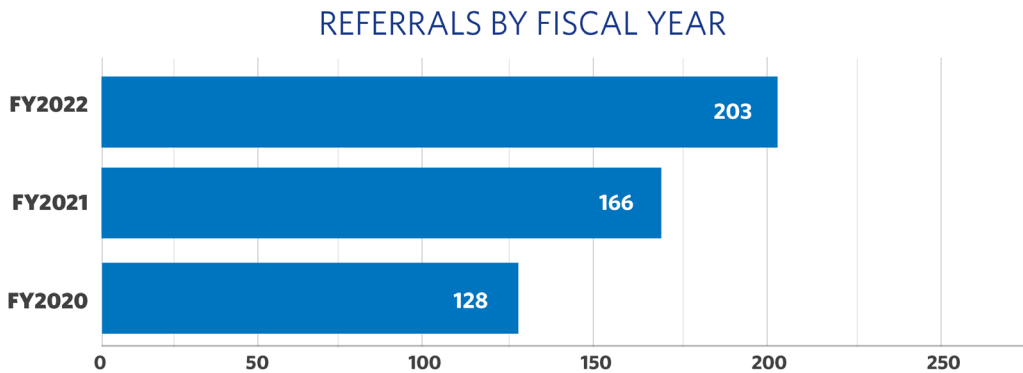
The x-axis shows each of the twelve quarters during which the Ombuds Service has been in operation, while the y-axis displays the number of referrals received in each respective quarter.



The referral rate has been steady (47.5 per quarter, on average) excluding and since the first two quarters of fiscal year 2020. There were no less than 39 and no more than 56 referrals placed during any of the most recent 10 quarters. The busiest on record was the third quarter of fiscal year 2022, marking the second year that quarter three has been the most eventful. The busiest month has been May with about 17% of all referrals received.

**FIGURE 4. Referrals by Fiscal Year**

The y-axis shows each of the three fiscal years during which the Ombuds Service has been in operation, while the x-axis displays the total number of referrals received in each respective year.



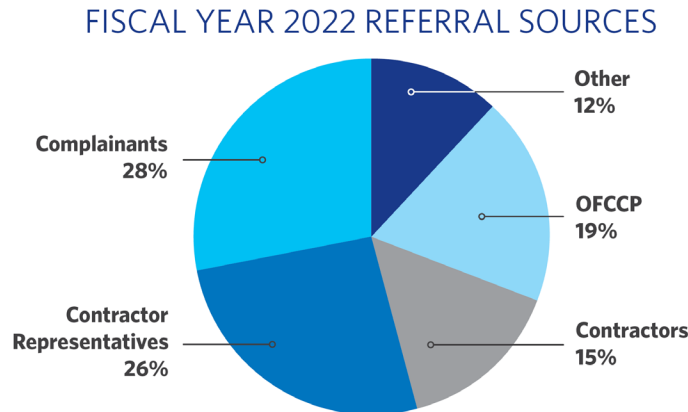
In total, 203 referrals were received in fiscal year 2022, an increase from the 166 received in 2021 and 128 received in 2020. That type of growth is expected as exposure to the program and the external stakeholder community’s comfort level develops. The Ombuds’ plans to continue engaging internally and externally should keep the referral trend moving upward.

**SOURCES OF REFERRALS**

The Ombuds is also interested in where referrals are coming from. It can be helpful to gauge how often certain referral sources are initiating contact. For the sake of reporting confidentially, Figure 5 does not disclose the identities of individuals or groups who have placed ombuds referrals, nor does it represent how many individuals have worked with the Ombuds Service (explored later in Section IV, Figure 13).

**FIGURE 5. Fiscal Year 2022 Referral Sources**

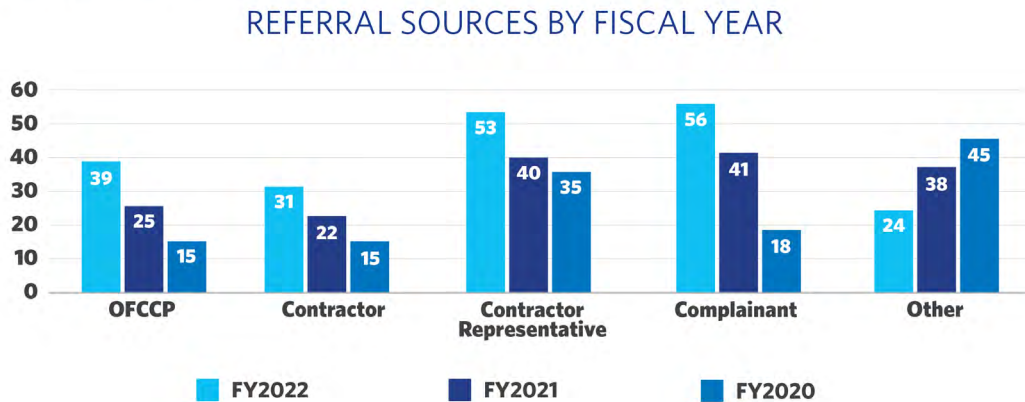
The 203 referrals received in FY2022 displayed in correspondence to who initiated them.



An encouraging observation is that 19% of all 2022 referrals were initiated by OFCCP offices needing assistance in their coordination with external stakeholders, compared to 15% of all 2021 referrals and just 12% in 2020. This is almost certainly the direct result of in-reach, which will be further discussed in *Section V. Reach of the Ombuds Service*. Contractors placed approximately 15% of all 2022 referrals, contractor representatives just over 26%, and complainants roughly 28%.

**FIGURE 6. Referral Sources by Fiscal Year**

A side-by-side comparison of the referral sources from FY2020 to FY2022.



The category listed as “Other” includes inquiries made by individuals whose issues fall entirely outside of OFCCP’s jurisdiction, the only category that decreased in referral frequency year over year. When someone requests assistance with something unrelated to the work of OFCCP, the Ombuds will explain the agency’s mission and authority, and provide guidance about other available resources either within or outside of the DOL.

## FREQUENCY OF RESOLUTION TECHNIQUES UTILIZED

An overwhelming majority of the neutral assistance provided by the Ombuds was performed through individual consultation. Of the 285 dispute resolution processes, 66% were active listening, option exploration, conflict coaching, or some other type of private, one-on-one conversations between a referral source and the Ombuds. Individual consultation could also be a discussion about resources available to an external stakeholder who needs guidance that they are otherwise unsure how to find, or uncomfortable requesting from others in the agency.

### **FIGURE 7. Frequency of Resolution Techniques Utilized**

A single referral might include multiple resolution mechanisms and, as such, the total number of services provided does not equate to the total number of referrals received and handled by the Ombuds Service.

RESOLUTION TECHNIQUES UTILIZED	FREQUENCY
Individual Consultation	188
Shuttle Diplomacy	71
Mediation/Facilitated Dialogue	26

Shuttle diplomacy accounted for just under 25% of resolution techniques utilized, meaning that someone requested the Ombuds engage others involved with a conflict. When using shuttle diplomacy, the Ombuds meets with both sides, perhaps several times each, and relays messages back and forth until either the parties are able to communicate directly or their issue is resolved. This was most often the case when the primary issue types (see Figure 8) were identified as negotiation impasses, jurisdiction disputes, extension requests, or concerns about the conduct of other individuals, investigations, or transparency. When parties are not able or willing to speak directly, the use of shuttle diplomacy is most ideal. Meanwhile, whenever it appears that parties are ready and capable of having joint, productive conversations with each other, the Ombuds moves to either facilitated dialogue or mediation. The most common primary issue types that lead to facilitated dialogue or mediation are communication breakdowns, negotiation impasses, and review or investigation concerns.

## IV. Issues Analysis

Organizational trend analysis is a crucial component of the ombuds position. It can be an effective way of looking below the surface of individual concerns and, among them, discovering a higher level of meaning. When sufficiently evaluated, the data collected will reveal trends which transform into narratives, allowing OFCCP and its stakeholders to gauge the overall scope of agency challenges and opportunities for improvement. This section will impartially and confidentially present data related to primary and secondary issue types as well as patterns observed when comparing fiscal year 2022 to those immediately preceding it.



**PRIMARY ISSUE TYPES**

The Ombuds Service attributes a primary issue type to each of the referrals it receives. The issue itself is what initiated the referral and is generally revealed during preliminary conversations. The primary issue data displayed in Figure 8 is representative of concerns expressed by both external stakeholders and OFCCP staff, unless otherwise noted in the Explanation column.

**FIGURE 8. Frequency and Explanations of Primary Issue Types**

The initial concerns and issues presented to the Ombuds.

PRIMARY ISSUE TYPES	FREQUENCY	EXPLANATION
Need for Guidance	52	Includes questions and/or requests for clarification about contractor reporting requirements, certification of AAPs, Executive Order or other OFCCP mandates, requirements as they pertain to certain types of contractor establishments (i.e. construction, higher education, etc.), the complaint investigation process, requests for mediation, etc.
Policy and/or Operational Concerns	23	Primarily expressed by external stakeholders about OFCCP policies or practices.
Disputed Determinations	12	Often initiated by complainants dissatisfied with the results of a complaint investigation upon receipt of a Notice of Results of Investigation (NORI).
Negotiation Impasses	14	Presented to Ombuds at various points in time, from early in the life of a compliance evaluation to much later in the process, but often during unsuccessful conciliation efforts.
Concerns about the Conduct of Personnel	17	When referral sources described others as difficult to work with.
Investigation Concerns	14	Expressed by complainants, contractors, and contractor representatives concerning the length and/or efficiency of OFCCP investigations.
Communication	12	Ranged from delayed replies to lack of correspondence to incompatible communication styles.
Jurisdiction Disputes	13	Includes contractor requests for administrative closure of compliance evaluations, complainants arguing their employer is a federal contractor and requesting that OFCCP conduct additional jurisdiction research, etc.
Transparency	4	Concerns regarding the withholding of information that would otherwise be relied upon within OFCCP processes.
Scope of a Review	4	When a contractor and/or contractor representatives disagree with the proposed focus of an OFCCP investigation, usually during the early stages of a compliance evaluation.
Extension Requests	3	Raised primarily by contractors and/or contractor representatives when deadlines for submission of data or other information cannot be agreed upon by working directly with the applicable OFCCP office.
Other	35	When the referral source identifies issues and/or concerns unrelated to OFCCP's jurisdiction, or about other government agencies and their policies.
<b>Total</b>	<b>203</b>	

## SECONDARY ISSUE TYPES

Conflict is inevitable, occurring in all organizations, large and small. It also presents growth opportunities when individuals and organizations seek to better understand what leads to or escalates problems and concerns. For this reason, the Ombuds looks within and beyond primary issues to identify and evaluate secondary issues. When multiple parties are involved there will inevitably be multiple sides to the story. As the Ombuds continues handling a referral and eventually has a more complete version of those stories, the list of issues typically grows. Sometimes they are born out of the primary issue, and other times they are the cause, but either way a contributor to conflict.

**FIGURE 9. Total Issues**

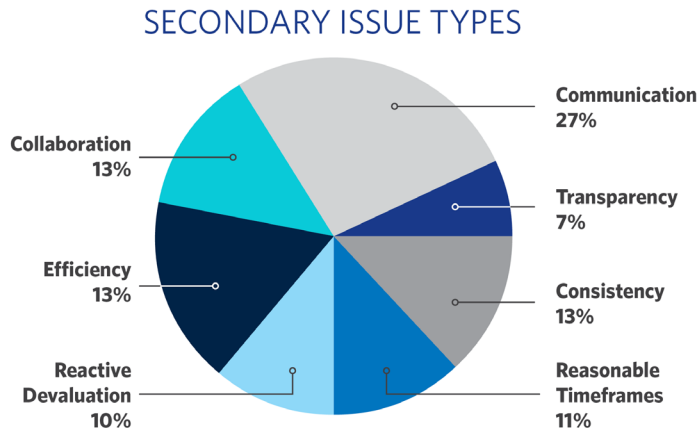
The number of primary versus secondary issues as well as the overall total.

ISSUE TYPE	FREQUENCY
Primary Issues	203
Secondary Issues	229
<b>Total</b>	<b>432</b>

Without deeper analyses, it would be insufficient to conclude that a disagreement was simply due to the conduct of an individual, investigation concerns, or a negotiation impasse. An ombuds' abilities to effectively assist individuals and then analyze organizational trends rely upon probing questions about why conduct appears to be the issue, what about the review or investigation seems problematic, and why people's efforts to work together faltered. Those questions tend to address every angle of a particular issue. Not surprisingly, secondary issues outnumbered primary issues for the third year in a row and in 2021 and 2022 accounted for 55% and 53% of the total issues from those two years respectively.

**FIGURE 10. Secondary Issue Types**

The secondary issues tracked in FY2022, along with their frequency.



Also worth noting is the framing of secondary issues. When listening with an emphasis on someone’s interests, the listener’s observations will largely take the form of value statements such as fairness, respect, acknowledgment, acceptance, or other commonly held interests. When an ombuds listens, they often advance the conversation by helping the referral source explore what is required for their interests to be satisfied. Secondary issues therefore represent what people need as part of an individual situation or perhaps an ongoing relationship.

**FIGURE 11. The Nature of Secondary Issues**

The types of underlying issues and concerns revealed when continuing to work with one or more parties, along with explanations of each.

SECONDARY ISSUE TYPES	EXPLANATION
Communication	Frustrations about long gaps in communication, slow replies, unclear messages, aggressive or passive aggressive communication styles, and language interpreted as counterproductive to establishing and/or maintaining collaborative relationships.
Transparency	When either an external stakeholder or OFCCP accuses the other party of refusing to reveal necessary information, or operating in a manner that makes it difficult for others to understand what actions are being performed and why. Often times it is perceived to be intentional and without accountability.
Consistency	Most often raised by contractor representatives who observed different practices from one OFCCP office to the next, or when individuals and/or offices are accused of deviating from published agency guidance. Also occasionally raised by complainants who received conflicting information.
Reasonable Timeframes	Introduced by internal and external stakeholders, and most often about seemingly burdensome or unreasonable information requests, unnecessarily lengthy processes, or when someone suggests they need more time and a counterpart believes enough time has already elapsed.
Reactive Devaluation	Disagreeing with, discrediting, or questioning certain individuals or groups and their proposals, language, or actions as a learned reaction to a prior dispute. Occasionally this occurs subconsciously, while other times people are aware and explicitly claim that their counterpart is biased.
Efficiency	More likely to be expressed by complainants, contractors, and contractor representatives when individuals or groups within OFCCP suggest processes or request information that does not appear to be necessary and/or productive, or when an entire policy or practice of the agency seemed ineffective from the perspective of an external stakeholder.
Collaboration	Concerns expressed when there are perceptions about an apparent lack of interest for working together, joint problem solving, or striving for mutually beneficial processes and/or outcomes.

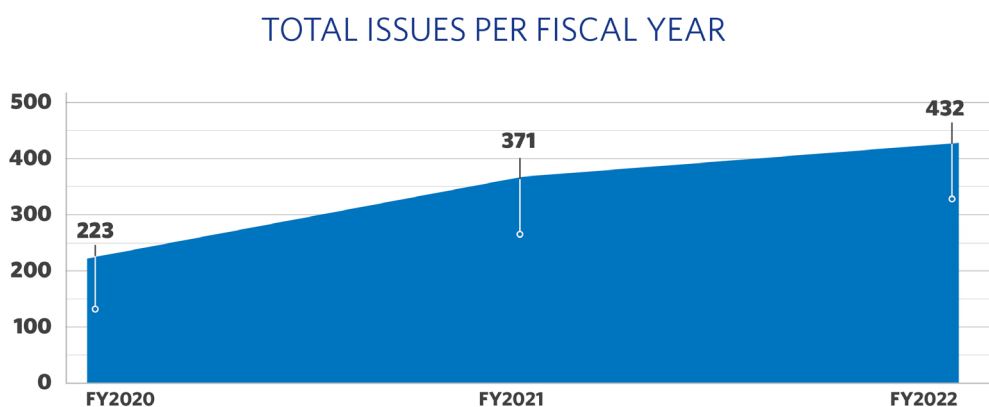
## TREND ANALYSIS

Referral data is reviewed on at least a monthly basis, a practice of the Ombuds since the inception of the office. Now though, after three full years in operation, the Ombuds Service has a large enough sample size to identify and analyze trends, providing legitimate opportunities to understand what the data actually suggest. This includes the number of total issues year over year, as well as any applicable factors that could be contributing to either a sharp rise or fall. The analysis also looks at any outliers from the primary or secondary issue categories, which secondary issues have been most prevalent over the three-year life of the program, and what some of these patterns might mean for OFCCP and external stakeholders.

Figure 12 demonstrates that the largest growth occurred between fiscal year 2020 to 2021 (from 223 to 371 issues, or a 166% increase) and that total issues have increased each year. Still, a conclusion that OFCCP conflict is increasingly more prevalent would be misleading. When looking more closely, the surge was inevitable. In Section III this report established that, like total issues, the number of referrals increased year over year (see Figure 4) and grew by almost 130% from 2020 to 2021.

### **FIGURE 12. Total Issues per Fiscal Year**

The total number of primary and secondary issues identified through the first three years of Ombuds Service operations, with the number of issues displayed on the y-axis and the corresponding fiscal years on the x-axis.

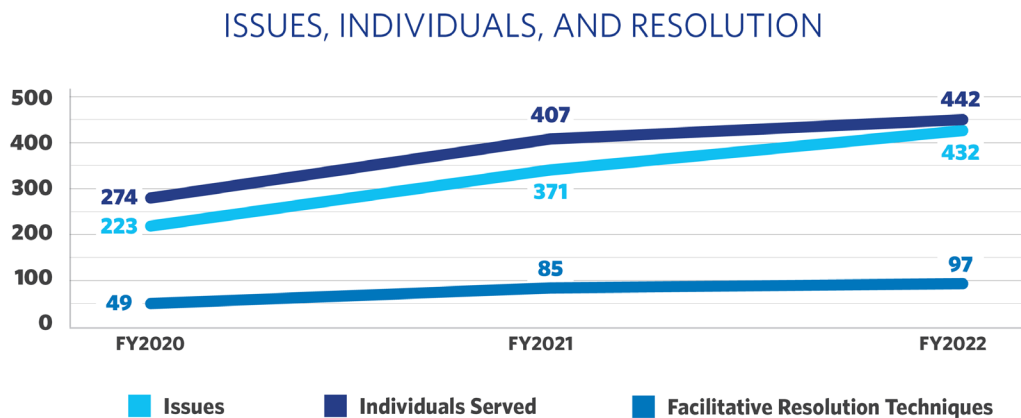


In addition to the data, there are contributing factors that suggest conflict has been observed at an ordinary rate, consistent with the number of stakeholder inquiries and referrals. First, the Ombuds faced an initial period of acclimation that lasted several months, becoming familiar with the laws, regulations, policies, and practices of OFCCP, and perhaps most importantly the communication patterns and existing relationships between the agency and external stakeholders. Once that learning curve flattened sometime in the latter stages of fiscal year 2020, and a serviceable amount of knowledge and experience had been established, the Ombuds was able to comprehend and identify the full scope of concerns and issues faced within and outside of OFCCP. Meanwhile, there was greater and more meaningful exposure to the Ombuds Service after 2020, when most within the stakeholder community had not yet met or worked with the Ombuds. As with anything else, exposure leads to familiarity, which not only creates certainty but in turn builds trust and, as a result, explains the increase of total issues per fiscal year displayed in Figure 12.

There is also a strong correlation between increased referral numbers, issues identified by the Ombuds, the number of individuals with whom the Ombuds has worked, and more facilitative resolution techniques used to address issues and concerns. Practices such as shuttle diplomacy, facilitated dialogue, and mediation could include anywhere from a small to large group of people (whereas individual consultation solely involves the Ombuds and referral source). Therefore, yearly accrual of ombuds referrals impacts the frequency of facilitative resolution methods and yields a greater number of process participants (from 274 people in fiscal year 2020, to 407 in 2021, and 442 in 2022) which inevitably increases the likelihood that more issues are identified.

**FIGURE 13. Issues, Individuals, and Resolution**

The correlation between total issues, individuals worked with, and the more facilitative conflict resolution techniques used by the Ombuds, with totals shown on the y-axis and the corresponding fiscal years on the x-axis.



Trends can also be observed by more closely analyzing issue data and, given the smaller scale of referrals and issues identified in fiscal year 2020, the most accurate way of detecting current patterns would be to look more specifically at the past two years. As for primary issues, the Need for Guidance was the category with the highest two-year total and showed the greatest increase from one year to the next. Approximately 22% of 2021 referrals fell into this issue type, compared to 26% of referrals in 2022, demonstrating the external stakeholder community’s growing requests for information. This includes contractors needing clarification about their obligations, requirements related more specifically to certain types of contractor establishments, new or updated policy guidance, and requests for compliance assistance. The fact that this increase came during the fiscal year immediately following a change in administration is not unusual. All organizations (public and private sector) are likely to receive questions when leadership changes hands and new or even slightly different policies, priorities, and practices are either anticipated or initiated.

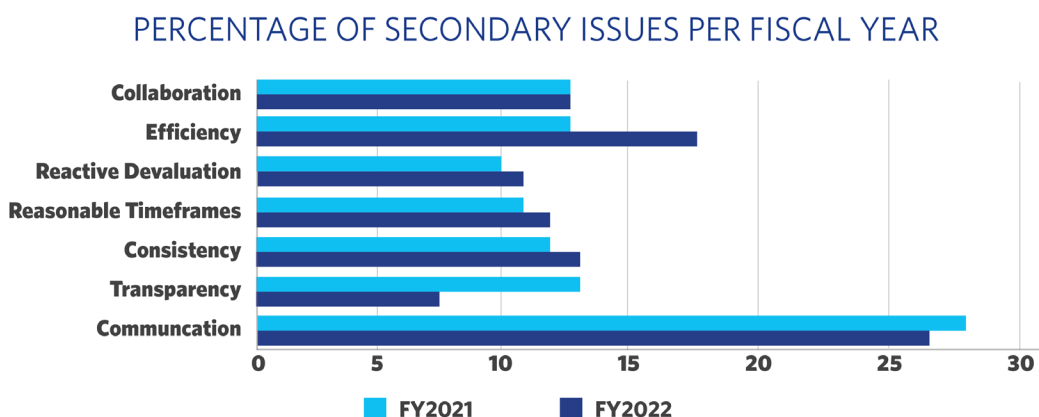
The one other category that saw a noticeable increase was Jurisdiction Disputes (only about 6% of 2022 primary issues, but as low as 3% in 2021), likely the result of OFCCP staff continuing to identify the Ombuds Service as a resource for dissatisfied external stakeholders, and particularly complainants when told that the agency does not have the jurisdiction to investigate their discrimination allegations. It has become commonplace for OFCCP field office employees to copy and reference the Ombuds Service when responding to a complainant who is unhappy about the answers or assistance provided.

With reference to secondary issue data, there are two significant trends to observe. First, communication is clearly the biggest contributor to OFCCP conflict, accounting for 28% of all secondary issues in 2021 and 27% the following year (and the next largest percentage of secondary issues from either year being efficiency at 17% in 2022). In fairness to the agency and its stakeholders, this is a phenomenon seen in every organization, no matter which sector of the workforce.

The other noteworthy observation is the degree to which the transparency category declined from one year to the next, going from the second largest in 2021 (13% of all secondary issues) to the least likely category to contribute to conflict in 2022 (only 7% of secondary issues). Potentially triggering the reduction were new efforts to proactively educate the external stakeholder community; greater exposure to current agency leadership; the clarification of policy matters; and increasingly sharing documents and information through OFCCP's website and outreach events (such as scheduling methodology, conciliation agreements, webinars clarifying new policies and practices like the Contractor Portal and the process of certifying affirmative action plans, etc.).

**FIGURE 14. Percentage of Secondary Issues per Fiscal Year**

Each of the secondary issue categories in proportion to the total number of secondary issues, with fiscal years 2021 and 2022 in comparison.



When considering what all of this means for the agency and external stakeholders, there is good reason to be optimistic. A steady growth in referrals and inquiries, along with the number of individuals served, means that more and more people have trusted the pledges to confidentiality and independence that make the Ombuds Service a valuable option for conflict management and resolution. Meanwhile, it is encouraging that in the same year the Ombuds received more inquiries than ever before, the agency significantly reduced allegations of a lack of transparency. The most probable correlation is that OFCCP is listening, which emphasizes the value of stakeholders sharing input with the Ombuds Service.

## V. Reach of the Ombuds Service

The ombuds profession is far more visible than it was even 10-15 years ago but, understandably, questions remain among the general public about what an ombuds is and how one can be helpful. It is critical for ombuds offices to connect with the populations they serve so as to illustrate how the ombuds process works and demonstrate its value (internally and externally). As revealed in Figure 13, the number of individuals worked with was at an all-time high in fiscal year 2022 (442 people), but this only includes those who participated in referrals and inquiries, which is merely a fraction of the people who interacted with the Ombuds throughout the fiscal year. The Ombuds Service also measures its influence by the frequency and types of large group engagements it participates in, as well as survey data submitted by those who have interacted with the Ombuds.

### **INTERNAL AND EXTERNAL ENGAGEMENT**

The marketing and outreach campaign that began in 2019 is never-ending. While some ombuds offices are created to serve a very specific constituency, the OFCCP Ombuds collaborates with workers, worker groups, federal contractors and subcontractors, their attorneys and consultants, OFCCP employees, and other interested third parties. A vast assembly of stakeholders requires the Ombuds Service to use a variety of platforms to conduct both in-reach, or internal engagement, and outreach, or external engagement. Both are necessary to educate and build relationships, and to satisfy the third essential function of an ombuds, to promote wider conflict competence among the agency and stakeholders.

In fiscal year 2022, the Ombuds met with and presented to OFCCP groups and/or facilitated internal discussions over 30 times. This included attendance at regional manager's meetings and National Office divisional meetings, serving as moderator for town halls, presenting updates and confidential reports to senior leaders, and delivering workshops and training to OFCCP employees. Meanwhile, outreach efforts involved a diverse array of external stakeholders, including but not limited to regional Industry Liaison Groups (ILGs) consisting of contractors and their representatives, OFCCP roundtables and DOL listening sessions with workers, worker rights groups, unions, and trade associations, and widely attended stakeholder events such as the National Industry Liaison Group (NILG) and American Association for Access, Equity, and Diversity (AAAED) annual conferences. In an ongoing effort to expand its footprint, the Ombuds Service remains interested in new and unique opportunities for internal and external engagement.

### **RECEPTION**

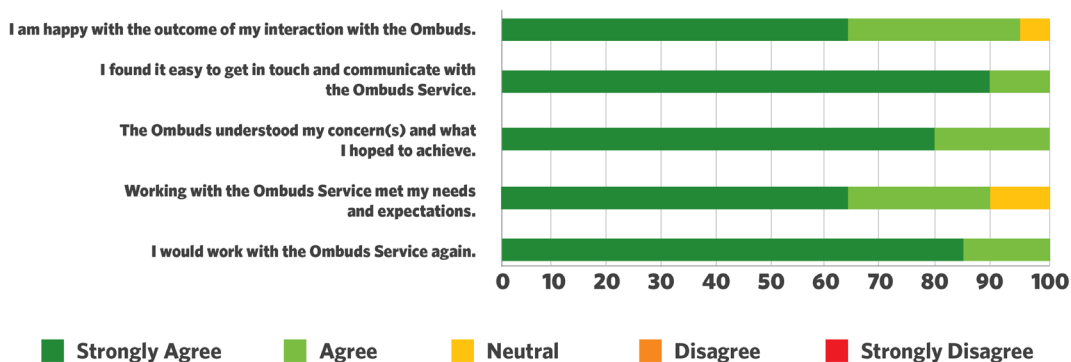
Feedback from those who've interacted with the Ombuds has been one of the most direct and reliable sources to measure the program's impact. Fortunately, more data was collected in fiscal year 2022 than ever before, both qualitative and quantitative. The Ombuds Service Evaluation Form <sup>5</sup> is a survey accessible through the OFCCP website that allows stakeholders to assess the quality and value of services provided by the Ombuds. People may share their names and contact information if they choose to, but those fields are voluntary, allowing for evaluations to be submitted anonymously. There are a total of eight survey questions, with a combination of multiple-choice and free-form response fields.

At least 80% of respondents strongly agreed with three statements: that it was easy to get in touch and communicate with the Ombuds Service, the Ombuds understood their concern(s) and what they hoped to achieve, and they would work with the Ombuds Service again. This level of satisfaction is likely one of the reasons for a yearly growth in referrals and a greater number of individuals working with the Ombuds. Meanwhile, there were people who felt neutral about the outcome of their interaction with the Ombuds (5% of respondents) and whether working with the Ombuds Service met their needs and expectations (10%). Although small percentages, these are areas the office hopes to improve in fiscal year 2023 by more proactively explaining what the Ombuds can and cannot do within the parameters of the Standards of Practice, and in the process more intentionally setting realistic expectations.

**FIGURE 15. Evaluation Form Responses**

The five multiple choice prompts from the Ombuds Service Evaluation Form, and the percentage of time respondents either strongly agreed, agreed, felt neutral, disagreed, or strongly disagreed.

**EVALUATION FORM RESPONSES**



Free-form responses included a number of informative testimonials, educating the Ombuds Service about why stakeholders chose to contact the office, what they were hoping to achieve, and insight about level of satisfaction.

***“The Ombuds Service is a reliable way to have communications facilitated between contractors and District Offices. In this case, the intervention of the Ombuds enhanced the efficiency of the process and allowed us to complete the compliance review more effectively.”***

— Outside counsel for a federal contractor who worked with the Ombuds Service through shuttle diplomacy to address compliance evaluation disagreements between the contractor and OFCCP.

***“Thanks so much for helping me with this inquiry. Your input about an appropriate response was very thoughtful and to the point.”***

— OFCCP manager after receiving conflict coaching from the Ombuds regarding someone they found difficult to communicate with.

***“Marcus helped in addressing every aspect of a recent problem, including policy issues that I didn’t think the local office could help with and I didn’t know who else to speak to about. The Ombuds is a safe space because he helps identify options and can even bring concerns to the right people confidentially.”***

— Contractor who initially introduced concerns about the scope of a review, and later made suggestions aimed at increasing both efficiency and consistency among OFCCP offices.



***"The Ombuds helped me get my issue addressed when the traditional avenues didn't seem to validate or even understand what I was raising about OFCCP's jurisdiction."***

— Complainant who used shuttle diplomacy by Ombuds to revisit previously stalled communications with an OFCCP division.

***"I feel that the service is regularly able to get agency personnel to be more responsive and sometimes more reasonable in their positions. I appreciate the service as an outlet for venting my own frustration. This sometimes makes it easier to proceed even when I am still not happy with the result and, on occasion, has helped me to compromise when my own position may not have been entirely reasonable either."***

— Consultant who has utilized the Ombuds Service on a number of occasions.

***"The ombuds helped address and then greatly reduce the potential for further miscommunication, which to that point had translated into a poor customer experience."***

— Complainant who raised with Ombuds what they called untimely and unhelpful replies from OFCCP.

***"Thank you for all of your assistance with the negotiations! It is nice to have an ombuds available to help us resolve a conflict and reach a mutual agreement. Your efforts in leading a successful mediation have enabled OFCCP to resolve this case effectively."***

— District Director after Ombuds mediated a systemic discrimination case in the conciliation phase.

***"The Ombuds is a very easy person to communicate with. He addresses situations with the proper caution, support and direction. I feel that he reached out to the necessary individuals, and the people I was working with were satisfied that he helped solve their problems. Marcus was a phenomenal addition to the OFCCP."***

— Consultant who initially consulted the Ombuds for advice, and then authorized shuttle diplomacy to facilitate and help overcome a misunderstanding between OFCCP and the contractor.

***"I have said this before but it bears reiterating. I was skeptical that the Ombuds could truly be neutral, housed within OFCCP, but I have the highest respect for Marcus's neutrality."***

— Outside counsel who requested assistance with a client's communication and investigation concerns.

The Ombuds Service is grateful for all feedback received. Understanding stakeholder reactions to and satisfaction with the services provided is invaluable, as are recommendations for how those services can be improved. At a minimum, the time it takes people to follow-up and share feedback of any kind is sincerely appreciated.

## VI. What the Future Holds

If global events from the past few years have revealed anything, it's that no one can be certain what the future holds. Still, the Ombuds Service moves onward with an eye on the more predictable, even if that relies on making what appear to be safe assumptions. As discussed in *Section IV. Issues Analysis*, the referral rate steadily increased from 2021 to 2022 alongside a growing number of issues identified, individuals served, and facilitative resolution techniques utilized (see Figure 13). This trend is expected to continue in fiscal year 2023 as the office remains committed to connecting far and wide, and stakeholders become increasingly familiar with the work of the Ombuds.

Also on the horizon in fiscal year 2023 are a number of special projects, including the development of new conflict resolution training and workshops, speaking engagements at industry and compliance group conferences, and employee listening sessions aimed at gathering feedback around a variety of topics that can be confidentially relayed upward to senior leadership. Similar opportunities to collect feedback from the external stakeholder community will also be explored.

As in years past, the goal of this Annual Report is to welcome everyone with an interest in the work of OFCCP to review, interpret, and reflect. For those whom the aforementioned issue types or resolution techniques seemed to resonate, there is an ongoing invitation to make contact and explore how the Ombuds Service might assist. The Ombuds acknowledges how uncomfortable initiating contact can sometimes be. The idea of introducing sensitive issues and concerns to someone with whom you've never had direct interaction can be unsettling, and analyzing potential risk can certainly be complicated. At the very least it requires access to as much information as possible, which this report aims to provide. Still, if questions remain unanswered or additional guidance would be helpful, the Ombuds hopes to hear from you soon.

## VII. Resources and References

<sup>1</sup> [2021 Ombuds Service Annual Report](#)

<sup>2</sup> [OFCCP website](#)

<sup>3</sup> [International Ombuds Association](#)

<sup>4</sup> [Coalition of Federal Ombudsman](#)

<sup>5</sup> [Ombuds Service Evaluation Form](#)

