



*Office of the General Counsel  
Freedom of Information and Privacy Act*

## **2011 Chief FOIA Officer Report**

The Broadcasting Board of Governors (BBG) is the federal agency responsible for all non-military U.S. Government-funded international broadcasting. The BBG's mission is to promote freedom and democracy and enhance understanding through multimedia communication of accurate, objective, and balanced news, information and other programming about America and the world to audiences overseas. The Voice of America and other elements of BBG-sponsored international broadcasting transmit news and information in 59 languages to a weekly audience of 165 million people in countries that do not have access to free press and media.

At the BBG, Freedom of Information Act (FOIA) requests are managed by the Office of the General Counsel (OGC). The OGC's FOIA team (hereinafter, the "FOIA Office") directs incoming FOIA requests to a designated FOIA Officer, who fields the queries in consultation with the Agency's Chief FOIA Officer (currently the Deputy General Counsel and Acting General Counsel). The BBG does not employ full-time FOIA personnel, but rather utilizes personnel with part-time or occasional FOIA duties.

### **I. Steps Taken to Apply the Presumption of Openness**

In order to ensure that the presumption of openness is applied to all decisions involving the FOIA, the Chief FOIA Officer has required that all FOIA Officers read and understand the President's FOIA memorandum and the Attorney General's FOIA guidelines and endeavored to fully implement the presumption in response to FOIA requests to the Agency. To enhance the Agency's efforts, several FOIA Officers have attended external training specifically focused on, or incorporating training on, the new guidelines, including *FOIA for Attorneys and Access Professionals*, training on preparing DoJ's FOIA annual report, and the *Refresher Training Session on 2010 Agency Annual FOIA Reports*. Additionally, to increase overall awareness of the Agency's transparency responsibilities, the President's FOIA memorandum and Attorney General's FOIA guidelines are posted on the Agency's Internet FOIA page and were publicized Agency-wide via an internal House Announcement bulletin with links taking them to the documents.

BBG FOIA Officers and supporting attorneys have been instructed to review all proposed redactions and apply the guidance described above to maximize the information made available to the public, and they have fully adopted the President's presumption in favor of disclosure. Whenever the BBG determines that it cannot make full disclosure of a requested record, it actively considers whether it can make a partial disclosure. In particular, FOIA Officers and attorneys are implementing the "foreseeable harm" standard outlined in the Attorney General's guidance in determining whether information should be withheld or released.



Prior to 2011, the Agency was not tracking discretionary releases in its FOIA database, so it is difficult to accurately define the extent to which discretionary releases of otherwise exempt information was made. However, all proposed redactions or withholdings are reviewed to determine whether release will result in reasonably foreseeable harm to the Agency. If withholding is discretionary and if harm cannot be reasonably foreseen, the documents or information are considered for discretionary release. In particular, increased scrutiny was given to redactions proposed under Exemption 2 or Exemption 5 to look for opportunities to release primarily internal documents or information that would likely have been routinely withheld in the past.

The FOIA Office works with the agency's Open Government Team to look for opportunities to proactively increase information and data available to the public. A recent example of this collaboration is the online streaming and on-demand availability of open meetings of the Agency's Board of Governors. These efforts have produced tangible results for the agency's FOIA program; requests where records have been released in full increased from five (5) in 2009 to eight (8) in 2010, and those where records were released in part increased from four (4) in 2009 to thirteen (13) in 2010. For reference, the total number of FOIA requests processed by the Agency was twenty (20) and thirty-seven (37) for FY 2009 and FY 2010, respectively.

## **II. Steps Taken to Ensure that Your Agency has an Effective System In Place for Responding to Requests**

In 2010, the BBG further improved the effectiveness of its FOIA response capabilities. Within the General Counsel's office, two new positions were created to increase the percentage of FOIA responsibilities assigned to them and a FOIA Office team was assembled. In addition to this realignment, a comprehensive review of FOIA office procedures was undertaken to reduce processing times and increase recordkeeping accuracy and accountability. A new method for organizing, routing, and filing FOIA request packages was developed, and the utilization of intra-office checklists has improved processing management.

Program functions have been allocated into three primary categories (administrative, information management, and legal) and specific responsibility for those functions has been assigned to individual FOIA professionals. This clear division of labor and effort reduced confusion over responsibility for processing and following up on FOIA practices and increased accountability and oversight.

To improve timeliness and accountability, the FOIA office began utilizing digital scanning equipment to process and route FOIA search tasks within the agency. Late in 2010, the FOIA Office was able to obtain commercially-available digital information processing software to enable electronic review and redaction of FOIA materials and to permit the release of voluminous FOIA requests in a securely redacted digital format. Efforts are currently underway to study the feasibility of moving to an entirely digital FOIA process at the BBG, but the system currently in use is adequately supported by the Agency's IT organization.

Following the issuance of the President's Executive Order on Open Government, the BBG assembled a team of professionals from the OGC, the International Broadcasting Bureau, and the



Agency's public relations offices (hereinafter, the "Open Government Team") in order to identify and implement, on a continuing basis, opportunities to make significant BBG-generated data sets available to the public. FOIA Office personnel meet periodically with the Open Government Team to collaborate on ways to increase openness and transparency at the agency. FOIA attorneys are also contacted on an as-needed basis by members of the Open Government Team to analyze and discuss specific items or concepts for implementation as part of the agency's Open government Plan.

The agency is still analyzing whether the staffing changes and additions made in 2010 are adequate for current FOIA trends or if additional resources are necessary.

### **III. Steps Taken To Increase Proactive Disclosures**

The Agency has taken steps to increase the amount of information proactively disclosed to the public. In 2010, the Board of Governors affirmed its commitment to openness and transparency. Prior to 2010, nearly all of the Board's meetings were closed to the public pursuant to various exemptions under the Government in the Sunshine Act (GISA), but the newly-appointed Board decided to substantially reduce its exercise of those exemptions to close its meetings and nearly all its meeting activity has since been fully open to the public. Additionally, it decided to stream its open meetings over the Internet to the public, both via live feed during its meetings and on demand afterward, through the Agency's public Internet website. It also decided to make certain documents that it created or considered proactively available to the public as well, such as formal Board resolutions, Board committee reports, and media research information. Additional information on the Board's activities can be found on the Agency's website. The Agency has also proactively disclosed several documents that used to be available only upon request, such as annual operating reports and budgets.

Although there is no formal process at the BBG for identifying documents that can be disclosed proactively, the FOIA Office works in concert with the Open Government team to identify documents or high value datasets that may be of public interest. The Agency does not currently use social medial in connection with its FOIA or Open Government functions, but it will also continue to look for opportunities to expand into these areas as well.

### **IV. Steps Taken To Greater Utilize Technology**

Although the BBG has made advances in increasing its utilization of technology to improve its FOIA program, it does not currently have the capability to receive requests electronically. The Agency uses an internal electronic database to log and track the progress of FOIA requests, in which 100% of the Agency's FOIA requests are tracked.

With the recent addition of digital scanning equipment and processing software, the Agency has transitioned to processing 100% of its FOIA requests electronically, at least in part. Incoming FOIA requests are scanned and search requests are sent within the Agency via email. Records that are returned to the FOIA office in hard copy are then scanned into digital format and reviewed or redacted. Final responses to the requests are printed out in hard copy and sent via USPS to the requester, but digital versions of the final letters and FOIA responses are retained on the Agency's network for future reference.



Although information is retrieved from the Agency's FOIA tracking system to compile its Annual FOIA report, the system does not contain any specialized report-generating functions. Nevertheless, given the level of FOIA activity at the BBG, the Agency is generally satisfied that the level of technological support to the program is adequate.

## **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

The BBG strives to answer each and every FOIA within the statutory guidelines, and the Agency has made significant progress toward that goal. By adopting new technological tools methods for processing FOIA, increasing manpower, and restructuring the FOIA Office and its procedures, the agency realized a roughly 30 per cent reduction in overall request processing time. Furthermore, as of the close of FY 2010 the agency had no backlogged FOIA requests or appeals.

### **Spotlight on Success**

Unquestionably, the most successful effort to increase openness at the Agency has been that to increase the transparency of the operations and decisions of the Board of Governors. For the first time in 2010, the Agency began to conduct open public meetings of the Board of Governors that are webcast live to the viewing public. These proceedings are held in compliance with the Government in the Sunshine Act and its spirit of opening government operations to public observation. By posting recordings of the open meetings on the Internet, the Agency has been able to open up the process to the entire world to view and review at their convenience. Soon after the conclusion of each Board meeting, the record of the Board's decisions is made available to the public by being posted on the Agency's website. The proactive disclosures of the decisions and activities of the Board further increases the amount of information freely available to the public and realizes the Agency's commitment to permit the public to see "what is known and done by their government."