

*Office of the General Counsel***2014 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 inform, engage, and connect people around the world in support of freedom and democracy. The Voice of America, Office of Cuba Broadcasting, and other elements of BBG-sponsored international broadcasting transmit more than 3,000 hours of original news and informational content in 61 languages to over 100 countries, reaching a weekly audience of 206 million people via radio, terrestrial and satellite television, mobile devices, and the Internet and social media.

At the BBG, Freedom of Information Act (FOIA) requests are centrally managed by the Office of the General Counsel (OGC). The OGC's FOIA team (hereinafter, the "FOIA Office") receives all incoming FOIA requests, coordinates the search for and processing of requested materials, and reviews and releases responses to requesters in coordination with the agency's Chief FOIA Officer (currently the General Counsel). The BBG does not employ full-time FOIA personnel, but rather utilizes personnel with part-time or occasional FOIA duties. Currently, the BBG's FOIA Office consists of six employees (including the Chief FOIA officer) who perform their part-time FOIA duties for the entire agency.

The BBG is committed to conducting its operations as openly and transparently as possible and consistently strives to meet all its expectations under the FOIA and the additional guidance provided by the President of the United States and the Attorney General. The agency's FOIA program is always seeking new ways to provide more information in less time and to improve the service it provides to the public.

This report was prepared under the direction and supervision Mr. Paul Kollmer-Dorsey, the agency's Chief FOIA Officer and General Counsel.

I. Steps Taken to Apply the Presumption of Openness

In order to ensure that the presumption of openness is applied to all agency decisions involving the FOIA, FOIA Office personnel review all proposed redactions and documents recommended for full withholding and apply the guidance described above to maximize the information made available to the public. Whenever the agency determines it cannot make a full disclosure of a requested record because of protectable information, it carefully considers whether it can make a partial disclosure. Before concluding that any information must be withheld from public release, FOIA Office personnel apply the "foreseeable harm" standard as outlined by the Attorney General and work with agency managers to assess the potential impact on agency operations prior to making a final decision on releasability. Additionally, the agency has established a robust FOIA appeal program, consisting of an Access Appeal Committee comprised of at least three career civil service employees and a dedicated attorney to provide advice, which reviews all FOIA appeals for compliance, fairness, openness, and equity. Lastly, the Chief FOIA Officer briefed the Board of Governors on three separate occasions to highlight

the agency's FOIA performance and to emphasize the importance of FOIA in all aspects of the agency's operations.

In addition to keeping current on FOIA policies and practices by following critical updates from the Department of Justice's Office of Information Policy (OIP) website, agency FOIA Office personnel also participated in structured Department of Justice FOIA training, including its Director's Lecture Series regarding FOIA topics and the Basic FOIA Training Course. During the prior year, 50% of the agency's FOIA professionals attended substantive FOIA training. For the upcoming year, the Chief FOIA Officer will direct all FOIA Office personnel to attend at least one training session sponsored by the Department of Justice in calendar year 2014 to comply with recent OIP guidance regarding core, substantive training.

The agency did not conduct formal group or institutional FOIA training in the past year, but FOIA Office personnel routinely engaged in one-on-one training and instruction with agency managers and records custodians regarding the FOIA's presumption of openness and public access to government information, as well as the requirement to comply with Presidential and Attorney General guidance. FOIA Office personnel also regularly provide reminders to agency employees regarding their responsibility to support the FOIA program and search for and provide responsive information in a timely manner.

The agency remains committed to discretionary release of information that would otherwise be subject to lawful withholding under the FOIA. As an integral part of the agency's FOIA program, FOIA Office personnel review every proposed withholding or redaction of information for legal sufficiency and compliance with the FOIA. During that review, all material proposed for withholding under discretionary exemptions (primarily Exemptions 2 and 5) is further scrutinized to identify material suitable for discretionary release. Once such material is found, FOIA Office personnel then return to agency personnel responsible for maintaining it to discuss whether the material can be released without resulting in foreseeable harm to the agency, its decision-making processes, or its operations. In several FOIA requests in the past year, that process resulted in material initially marked for withholding ultimately being released to the public on a discretionary basis. Examples of such discretionary releases include audience research materials and presentations used to inform strategic agency decisions and deliberative process information shared in email communications between senior agency officials.

In the previous year the agency's FOIA professionals engaged in multiple discussions with members of the requester community regarding the Agency's administration of its FOIA programs. Although the agency did not organize any formal outreach programs or events, it continues to look for opportunities to incorporate requester and open government community concerns into its FOIA organization and operations.

Finally, the agency has posted all its quarterly FOIA reports on its public website in accordance with OIP guidance and will ensure quarterly reports continue to be posted throughout the year.

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

Because of its relatively small size, the BBG does not employ full-time FOIA professionals. All FOIA duties are performed on a part-time basis by full-time employees in various career fields, and the agency is able to respond to FOIA requests in an effective manner. Although the Office of Personnel Management has created a new Government Information Series to classify FOIA professionals, the agency is unable to convert any of its current FOIA Office personnel to the new series without disturbing their ability to progress in their currently-assigned series and corresponding duties. The Chief FOIA Officer frequently monitors both the volume of requests made to the agency and the time taken to process them to evaluate whether or not adequate staffing and resources are being dedicated to FOIA administration. The agency will continue to look for opportunities to create dedicated full-time Government Information Series positions, but current budgetary conditions do not support creating such positions at this time.

In the previous year, the agency's average for adjudicating expedited processing requests was 12 days, two higher than the 10-day standard. To ensure that the agency adjudicates future expedited FOIA requests within the 10-day standard, the Chief FOIA Officer has directed the FOIA program to increase the prioritization of such requests and expedite the review process to render more timely decisions. Although the agency had no consultations in the previous year, its current policies and procedures remain adequate to handle them in an efficient and effective manner.

The agency continues to work toward transitioning to a fully-electronic FOIA program, and currently is able to receive requests electronically via fax, complete the search and review processes electronically, and release requests electronically via compact disks. While the agency is still not able to accept request or deliver materials via email, it is optimistic that it will be able to develop the necessary regulations and internal procedures to do so in the coming year. Other steps the agency will take to improve the FOIA program include a comprehensive review and update of the agency's supplemental FOIA regulations, adding information regarding the services provided by the Office of Government Information Services (OGIS) to the agency's FOIA website, and providing written notification of OGIS services and contact information to requesters in all final agency FOIA responses.

III. Steps Taken To Increase Proactive Disclosures

The agency continued its policy of routinely proactively disclosing its high-value information to the public, and its public affairs offices, FOIA Office, and Open Government Team actively sought out and released information for proactive disclosure over the past year. All open meetings of the Broadcasting Board of Governors were again freely available to public observation over the Internet throughout the year, both via live feed during the meetings and on demand afterward, via the agency's public Internet website (www.bbg.gov). Additionally, the Board expanded online public observation to some of its committee meetings and staff briefings as well. The Board also proactively disclosed documents and records, such as formal Board resolutions, Board committee reports, and other items of potential public interest via the agency's public website.

The agency uses its website to provide timely and valuable information to the public, and it is always seeking ways to improve the amount of content it can proactively disclosure on it as

well as increasing public access to the information and satisfaction with its presentation. In addition to providing an open public website with built-in search capabilities, the agency also maintains an official presence on multiple social media platforms, including Facebook and Twitter, in order to bring essential agency news and information to a wider public audience. Additional information on agency activities and operations can be found on its website at www.bbg.gov.

Congressional legislation easing prior restrictions on the agency's domestic dissemination of its broadcasting content became effective on July 2, 2013. As a result, the agency is now able to make its most valuable information, namely the audio and video content created for overseas audiences, directly accessible to the domestic public. News and information produced by the Voice of America can be found at www.voanews.com, while news and information created by the Office of Cuba Broadcasting can be found at www.martinoticias.com.

IV. Steps Taken To Greater Utilize Technology

The BBG continued to seek new ways to utilize technology to improve its FOIA program. Although it has not yet attained the capability to receive requests electronically, it is continuing to aggressively pursue the ability to do so. Currently, the agency does not have the capability to permit requesters to track their own requests electronically via the Internet, but it is exploring the feasibility of developing a new tracking program that incorporates such a capability.

With the recent addition of digital scanning equipment and processing software, the agency has transitioned to processing all its FOIA requests electronically. Due to current budgetary constraints, it is unlikely that advanced search and processing technology or equipment will be available, but the agency will continue to look for innovative ways to improve and streamline its FOIA program through technological solutions.

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

The agency makes every effort to respond to each FOIA request within statutory guidelines. However, in Fiscal Year 2013 the average number of days required to process all non-expedited FOIA requests exceeded the statutory goal of 20 days. To ensure that agency processing times continue to move toward the 20-day goal, the entire FOIA Office meets at least twice a quarter to review all outstanding requests and prioritize personnel efforts as needed. The agency currently uses single-track system to process its FOIA requests on a first in, first out basis, but is reviewing whether or not a multi-track system would provide for more effective and efficient overall processing. Requests granted expedited handling, however, are processed on a separate track.

The agency had no backlogged appeals or pending consultations at the end of Fiscal Years 2012 or 2013. Additionally, the agency closed all of the requests that were pending at the end of Fiscal Year 2012. The agency had no backlogged requests from Fiscal Year 2012, but ended Fiscal Year 2013 with 11 backlogged requests. The Fiscal Year 2013 backlog was

primarily the result of the loss of experienced FOIA personnel and an increase in the size and complexity of requests received; in the third quarter the agency saw an unprecedented spike in FOIA activity, receiving more than triple the number of new requests than its usual quarterly average. The agency has already closed 6 of the 11 backlogged requests; it has also completed the search and retrieval of responsive documents for the remaining 5 backlogged requests and will complete its review process and close all 5 by the end of Fiscal Year 2014.

Because of the part-time duties of the agency's FOIA personnel, fully processing complex or large requests often requires additional time. Rather than make requesters wait until their entire request is processed before releasing any materials, the FOIA office monitors the progress of all open requests to identify opportunities to make interim releases of responsive material when it becomes available. In Fiscal Year 2013, the agency made interim releases in 5 of its 11 backlogged cases to facilitate public access to the requested information in as timely a manner as possible.

Use of FOIA's Law Enforcement "Exclusions"

The agency did not invoke any statutory exclusions pursuant to 5 USC 552(c) in Fiscal Year 2013.

Spotlight on Success

The 2009 FOIA guidance from the President and the Attorney General regarding openness and transparency continues to energize the agency's efforts to increase the amount of information available to the public. In addition to providing greater public access to its Board's meetings and decision documents, the agency's 13 full grants of FOIA requests in 2013 more than doubled the 6 full grants made in 2012. Furthermore, the ratio of full grants to full denials also improved substantially, increasing to 4.3:1 in 2013 from 3:1 in 2012. This increase in public access to agency information is a testament to the commitment of the agency and its FOIA personnel to pursuing the spirit of the Freedom of Information Act to the fullest extent possible.