

*Office of the General Counsel***2013 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 more than 100 countries, reaching a weekly audience of 187 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 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. Currently, the BBG's FOIA Office consists of five employees (including the Chief FOIA officer) who perform 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. Over the past few years, the agency's FOIA program has made great strides in providing more information to the public in less time, and it continues to look for ways to improve the service it provides the public.

This report was prepared under the direction and supervision Mr. Paul Kollmer-Dorsey, the agency's Chief FOIA Officer, Deputy General Counsel, and Acting 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 actively 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. Lastly, 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, which reviews all FOIA appeals for legal sufficiency, fairness, and openness.

In addition to remaining current on FOIA policies and practices by following critical updates from the Department of Justice's Office of Information Policy website, agency FOIA Office personnel also participated in Department of Justice FOIA training, such as its Director's Lecture Series regarding FOIA topics. Although the agency did not conduct any formal group or institutional FOIA training in the past year, FOIA Office personnel routinely engaged in one-on-one training and instruction with both 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.

In keeping with that guidance, the agency has increased its 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 draft input used to prepare agency employees for a congressional hearing, internal deliberative communications among senior agency staff concerning the agency's response to requests from a member of the press, and copies of training slides concerning personnel policies and practices.

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

Over the past year, the agency has provided the FOIA Office and its staff with prompt and effective support. In addition to ensuring sufficient computer equipment and software to process and distribute requests electronically within the agency and to scan, review, and securely redact both paper and electronic records delivered to the FOIA Office, the agency's IT personnel have assisted the FOIA Office in exploring solutions to be able to accept and process FOIA requests via email and to develop new internal FOIA tracking and storage systems.

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 have a close working relationship with the

offices that comprise the agency's Open Government Team, and they meet periodically to collaborate on ways to increase openness and transparency at the agency. Additional information on the agency's Open Government process is available on the agency's public website (www.bbg.gov).

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. Additionally, the agency's Board of Governors is regularly briefed on FOIA program matters to secure its support and advocacy for the FOIA program. Currently, staff and resources presently available for FOIA Administration are adequate for present FOIA workloads.

This past year the FOIA office conducted an internal self-assessment to analyze current processing procedures and explore whether a redefinition of roles and responsibilities of its FOIA professionals would improve review and coordination procedures. It also met regularly with the Chief FOIA Officer to determine whether additional agency-wide changes or guidance was necessary to improve search and production processes. One of the results of these initiatives was a substantial reduction in the average number of days required to process expedited requests, from 52 days in 2011 to 36 days in 2012.

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). The Board also proactively disclosed numerous other documents and records, such as formal Board resolutions, Board committee reports, the agency's annual budget submission, its 2011 Technology, Services, & Innovation Annual Performance Report, its 2011 Annual Language Service Review Briefing Book, and other items of potential public interest. The agency uses its official 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 disclose on it as well as increasing public satisfaction with its presentation. Additional information on Board activities and official agency information can be found on its website at www.bbg.gov.

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. 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 entered. 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. Incoming FOIA requests are scanned and search taskers are sent within the agency via email. Records that are returned to the FOIA office in hard copy are then scanned into digital format to be reviewed or redacted, while those returned in digital format are processed entirely electronically. All correspondence and final responses to requests are generated electronically, printed out in hard copy, and then sent via the United States Postal Service to the requester. The agency attempts to honor requests for records in electronic format to the greatest extent possible, and will provide electronic records on a CD-ROM when possible and upon specific request. Digital versions of final correspondence and FOIA responses are retained on the agency's computer network for future reference and document retention purposes.

The agency is currently in the process of transitioning a number of its data storage and electronic communications systems, and once the capabilities and capacities of the new systems can be fully ascertained the FOIA Office will look for ways to leverage the new technology to further improve the agency's record search and retrieval abilities.

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

The agency attempts to respond to each and every FOIA within statutory guidelines, and it continues to progress toward that goal. To ensure responses are provided in as timely a manner as possible, the entire FOIA Office meets at least twice a quarter to review all outstanding requests and prioritize personnel efforts as needed. Given the average number of requests the agency receives annually, it uses a single-track system to process its FOIA requests on a first in, first out basis. Requests granted expedited handling, however, are processed on a separate track. For fiscal year (FY) 2012, the average number of days required to process non-expedited requests was 32 days, an increase of only 1 day from the average of 31 days in FY 2011. Expedited processing times decreased substantially from an average of 52 days in FY 2011 to 36 days in FY 2012. The agency's commitment to responding to FOIA requests as expeditiously as possible resulted in it having no backlogged requests or administrative appeals at the close of FY 2012. The agency only had two FY 2011 requests pending at the beginning of FY 2012, and closed both of them were closed in FY 2012. Lastly, the agency did not have any administrative appeals or consultations pending at the end of FY 2011.

Use of FOIA's Law Enforcement "Exclusions"

The agency did not invoke any statutory exclusions pursuant to 5 USC 552(c) in FY 2012.

Spotlight on Success

Last year the agency received two requests seeking a broad range of documents from multiple organizations and offices. The requester, a representative of a media organization, sought expedited processing and fee waivers for both requests, and was approved for both. The search yielded more than 1,500 pages of potentially responsive documents, and ultimately more than 1,300 pages were provided to the requester free of charge. Despite the size and complexity of those requests, they were collected, reviewed, and released to the requester in an average of 39 days. Additionally, the agency discretionarily released a substantial number of documents that could have been lawfully withheld under FOIA exemption 5. The successful performance of the FOIA Office and the support of senior agency management to enable the prompt release of a relatively large volume of records on an expedited basis are emblematic of the agency's overall commitment to openness and transparency in its operations and timeliness and responsiveness in its response to requests from the public for its information.