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Office of the General Counsel

2020 Chief FOIA Officer Report

The United States Agency for Global Media (USAGM), formerly known as the Broadcasting Board of Governors, is the federal agency responsible for all U.S. Government-funded civilian international broadcasting and media operations. The USAGM’s mission is to inform, engage, and connect people around the world in support of freedom and democracy. Every week the Voice of America, Office of Cuba Broadcasting, and other elements of USAGM-sponsored international broadcasting transmit more than 4,000 hours of original news and informational content in more than 60 languages to approximately 345 million people in 100 countries via radio, terrestrial and satellite television, mobile devices, and the Internet and various social media platforms and applications.

Section 1: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. Is your agency’s Chief FOIA Officer at this level?

Yes.

2. Please provide the name and title of your agency’s Chief FOIA Officer.

USAGM’s Chief FOIA Officer is David J. Kligerman, the agency’s General Counsel.

B. FOIA Training

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes.

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

In Fiscal Year (FY) 2019, USAGM FOIA professionals attended numerous FOIA training sessions sponsored by the Department of Justice’s Office of Information Policy (DOJ/OIP), including Introduction to the FOIA, FOIA for Attorneys and Access Professionals, FOIA Litigation Seminar, Annual FOIA Report Refresher Training and Chief FOIA Officer Report Refresher Training.



5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100% of our FOIA professionals and staff attended training and we intend to continue to take advantage of OIP's excellent training resources in 2020. Three staff members were scheduled for the Best Practices session on FOIA and Technology originally scheduled for January 6, 2020 (but canceled due to snow).

6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

C. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Yes. During this reporting period, USAGM FOIA staff engaged in substantial informal outreach to the requester community regarding its administration of the FOIA. When our new Assistant General Counsel for FOIA came on board in May 2019, she personally reached out to all requesters with pending FOIA requests and appeals to let them know the status of their requests/appeals and who to contact with questions. She then worked with the team to implement internal processing procedures that resulted in more efficiency and the closing of all appeals and all but 14 pending matters by the end of the 2019 FOIA year. Due in part to the productive, professional relationship that exists between our FOIA staff and our requester community, which lets us work with requesters to narrow requests substantially, the USAGM FOIA Office looks forward to an efficient, productive, responsive and transparent 2020 FOIA year.

D. Other Initiatives

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.

In 2019, the FOIA team held multiple regular meetings with the agency program offices most involved in the FOIA-process. The team has worked closely with the FOIA liaisons in each of these program offices to refine and streamline the FOIA process, and to help educate our program office partners on FOIA's requirements and exemptions.

In 2020, the FOIA team will be conducting periodic (monthly or bimonthly) training sessions

for the agency's FOIA liaisons and any other non-FOIA staff regularly involved in administering FOIA. We also are planning to publish a "FOIA Tip" Newsletter that will be sent to program office officials and FOIA liaisons on a regular (monthly or bimonthly) basis starting in January 2020.

9. (Optional) If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

The USAGM engages in an ongoing effort to ensure the presumption of openness is applied to all release determinations. When processing FOIA requests, FOIA Office personnel reviewed all proposed redactions and documents recommended for full withholding to maximize information made available to the public and increase the agency's openness and transparency. Whenever full disclosure of a requested record cannot be made because the record contains exempt information and satisfies the foreseeable harm standard, the FOIA Office carefully considers the viability of partial release.

Reflecting its commitment to implement principles of transparency, participation, and collaboration as the cornerstone of an open government, the Agency has posted its Open Government Plans for public review. As the independent federal agency supervising all U.S. government-supported civilian international broadcasting, the USAGM is dedicated to, and built upon, openness, and it continues to be open to additional opportunities to incorporate the three cornerstone principles into its core mission objectives.

For 2020, the Chief FOIA Officer charged our FOIA team with updating the content of USAGM's Reading Room to ensure ongoing compliance with the 2016 FOIA amendments. The team already is working closely with a project manager from USAGM's Technology Information Services group to redesign and enhance the content of the agency's FOIA page and electronic reading room.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

1. For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's 2019 Annual Report

N/A

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

The FOIA Office received few and processed no requests for expedited processing in 2019. The agency's FOIA program is quite small (receiving only about 60-65 requests annually). It also was adversely affected by the loss of one out of two full-time FOIA/Ethics staff in 2018. However, a new lead FOIA attorney joined Office of the General Counsel mid-2019 and in the last half of the

reporting period, alone, the FOIA team closed all appeals and all but 14 pending requests. The FOIA team is fully committed to adjudicating in a timely manner all requests for expedited processing received by USAGM in FY 2020. To date in FY 2020, we have received only one such request, which we adjudicated and denied upon receipt (as it did not contain the required certification).

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Yes. During the reporting period, the FOIA team reviewed existing FOIA procedures and policy documents, workflow patterns, templates, and the status of its cases using an internal case tracking system and the 2018 FOIA annual report. The FOIA Team also met with all of the FOIA liaisons and management officials for its primary program office customers to solicit feedback and suggestions for improving efficiency. As a result of this thorough assessment, the FOIA Team revised workflow patterns, updated correspondence and search templates, conducted small training sessions for certain program offices, and began to involve program office personnel more regularly in the FOIA process and at an earlier stage. These changes streamlined FOIA search and response procedures significantly, decreasing response times to requesters and the agency's FOIA backlog.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2019 (please provide a total number or an estimate of the number).

No requestor sought assistance from the USAGM's FOIA Public Liaison during Fiscal Year 2019.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

The best practice that has helped the most to ensure efficient operation of our FOIA system is reaching out directly to all FOIA requesters to establish and cultivate a professional, open channel of communication. We have found that FOIA requesters who receive personal attention (via telephone and email) from agency personnel are more likely to work with the FOIA team to narrowly scope their requests. Many requesters have commented to our team that they truly appreciate hearing directly from a FOIA professional and that often their requests to other agencies go unanswered.

Section III: Steps Taken to Increase Proactive Disclosures

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or

more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

- Full video recordings of all 2019 Board of Governors Meetings, the most recent of which took place on November 6, 2019 (<https://www.usagm.gov/2019/11/14/meeting-of-the-board-november-14/>)
- USAGM FY2020 Congressional Budget Justification (https://www.usagm.gov/wp-content/uploads/2019/03/USAGMBudget_FY20_CBJ_3-15-19.pdf)
- Strategic Plan for 2018-2022 (https://www.usagm.gov/wp-content/uploads/2018/02/BBG-Strategic-Plan-2018-2022_FINAL.pdf)
- 2019 Action Plan (<https://www.usagm.gov/wp-content/uploads/2019/08/USAGM-2019-Initiatives-6-2019.pdf>)
- 2019 Performance and Accountability Report (<https://www.usagm.gov/wp-content/uploads/2019/11/USAGM-FY2019-PAR.pdf>)
- 2019 Audience and Impact Report (https://www.usagm.gov/wp-content/uploads/2019/11/2019-USAGM_audience-005.pdf)
- Technology, Services and Innovation (TSI) Annual Performance Report (<https://www.usagm.gov/our-work/strategy-and-results/strategic-priorities/research-reports/tsi/>)
- USAGM 2019 Federal Activities Inventory Reform (FAIR) Act Report (<https://www.usagm.gov/our-work/strategy-and-results/strategic-priorities/research-reports/fair-act/>)

As in prior years, the agency continued to make its most valuable information, namely the multimedia content it creates for dissemination to audiences overseas, directly and freely accessible to the public via the Agency's official network websites. News and information produced by the Voice of America can be found at www.voanews.com, and news and information produced by the Office of Cuba Broadcasting can be found at www.martinoticias.com.

USAGM also continued to enhance transparency by proactively releasing information concerning open meetings of the Broadcasting Board of Governors, which were made available to the public over the Internet throughout the year, both by live feed during the meetings and on demand afterward, via the agency's public website at www.usagm.gov. Proactive releases of information regarding the Board's 2019 activities also included various supporting documents and records, such as formal Board resolutions, Board committee reports, and other items of potential public interest via the agency's public website.

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

3. If yes, please provide examples of such improvements.

In 2018, USAGM revamped its public website (www.usagm.gov), in line with its re-branding

from Broadcasting Board of Governors to U.S. Agency for Global Media. In the process, the Agency also updated its information and re-formatted the site to make it more user-friendly and accessible to the public. In 2020, the FOIA team will be working with USAGM's Public Affairs Office to prepare and make available in USAGM's online reading room an index of all materials available to the public via USAGM's web pages, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D).

4. (Optional) Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

We have no additional information on this point.

Section IV: Steps Taken to Greater Utilize Technology

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported?

Yes. USAGM is exploring the functionality and utility of licensing an electronic FOIA system (such as FOIA Express). We have seen several such systems demonstrated at OIP Best Practices workshops. We are in the market research phase of our efforts.

2. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?

No. The Agency, however, has posted the Annual FOIA Report for 2019 (<https://www.usagm.gov/foia-reports/>) that contains information incorporating the fiscal year's quarterly data.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.

Staffing turnover within the FOIA Program disrupted the Agency's previous consistency in posting quarterly reports. With the additional of a new permanent and experienced Program Manager in mid-2019, we are committed to returning to successful quarterly reporting in Fiscal Year 2020. To this end, our First Quarter Raw Data and Closed Request Log both were posted on or about January 15, 2020.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

The Agency's Annual FOIA Reports, including those for FY 2018 and FY2019, can be found here: <https://www.usagm.gov/foia-reports/>.

6. (Optional) Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

In 2018, USAGM launched a redesigned public website (www.usagm.gov), in line with its organizational re-branding from Broadcasting Board of Governors to U.S. Agency for Global Media. The new website features improved layout and navigability in general, but also enables potential FOIA requestors to more easily locate and review information that USAGM has already posted. In addition, potential requestors can use the "search" feature of the website to filter and sort results by keywords; this makes it easier to locate information that the Agency has already made available to the public.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

A. Simple Track

1. Does your agency utilize a separate track for simple requests?

No. During the reporting period, FOIA professionals made best efforts to identify and address simple requests informally. However, generally, in FY 2019 the FOIA team processed requests on a first in, first out basis. Starting in FY 2020, the agency returned to a FOIA system that addresses simple, complex, and expedited requests in a formal manner.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

N/A

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

N/A

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

No.

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA

Reports for both Fiscal Year 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

No. The agency originally reported having 4 backlogged requests in 2018. We have since discovered that the agency, in fact, had 13 backlogged requests in 2018. USAGM also had 13 backlogged requests in 2019. Based on USAGM's corrected backlog of requests in 2018, therefore, the backlog remained the same.

6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?

Yes. The agency processed 34 requests in 2018. It processed 74 requests in 2019 -- an increase of over 100%.

7. If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- **An increase in the number of incoming requests.**
- **A loss of staff.**
- **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2019. If your agency has no request backlog, please answer with "N/A."

21 % (12 backlogged requests out of 63) for FY 2019.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

N/A

10. If not, did your agency process more appeals during Fiscal Year 2019 than it

did during Fiscal Year 2018?

N/A

11. If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- **An increase in the number of incoming appeals**
- **A loss of staff**
- **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

N/A

C. Backlog Reduction Plans

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2019?

N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

N/A

D. Status of Oldest Requests, Appeals, and Consultations

OLDEST REQUESTS

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report

Yes.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

N/A

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

By streamlining the FOIA process, creating new search templates, increasing the amount and frequency of program office FOIA education, and working more closely with USAGM's program offices on specific requests, the FOIA team was able to increase efficiency and reduce the amount of time it takes to process FOIA requests. The intended consequence of these steps was to reduce the overall age of our pending requests.

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

N/A.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

The agency receives a very small number of appeals annually and has no open appeals filed during or prior to the reporting period.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

N/A. The Agency did not have any pending consultations.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

N/A.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

Other than being short staffed until mid-2019, the agency did not face any unusual obstacles in closing its ten oldest requests from FY 2019.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2020.

As discussed above, in FY 2019 the agency streamlined its FOIA procedures and now is working more closely with program offices earlier to process requests. It also has a new search form and is looking forward to continuing to provide informal and formal FOIA education to program office staff most involved in the FOIA process. Using these strategies, the FOIA team is confident that it will finish processing the “ten oldest” from FY 2019 shortly and hopes to have no backlog or pending requests at the end of FY 2020.

F. Success Stories

In 2019, OGC hired a new lead FOIA counsel to replace the prior FOIA program lead, who departed in mid-2018. Under the leadership of our General Counsel, with substantial input from our new FOIA program lead, the agency has –

- Streamlined its FOIA process
- Updated and revised communication templates and search forms
- Established more collegial communication channels with requesters
- Worked closely with the program offices most involved with the FOIA process to improve the efficiency of processing.

As a result of those efforts, the FOIA team processed in excess of 100% more requests in 2019 than it did in 2018, as well as resolved the agency’s existing appeal backlog entirely. The USAGM FOIA program is strong and looks forward to a transparent, efficient and productive FY 2020.