

## § 501.9

under section 308 of the Foreign Service Act of 1980.

(2) In consultation with the Foreign Service Personnel Division (M/PF or VOA/PF) and officials from the pertinent Board elements, the Overseas Specialist applicant's total qualifications and experience will be evaluated based on the application and an interview. On the basis of this review and the recommendations of the appropriate officials, the personnel office will determine whether the application should be continued and, if so, will recommend the appointment class.

(d) *Medical examination and security investigation.* Qualified applicants and their dependents who will accompany them overseas will be given a physical examination. A security investigation will also be conducted. The reappointment action is subject to completion of a satisfactory security investigation and satisfactory medical examination of the applicant and his/her dependents.

(e) *Selection for reappointment.* The Director, Office of Personnel (M/P or VOA/P), taking into consideration (1) the qualifications and experience of each applicant as outlined in the qualifications evaluation performed by the Board of Examiners for the Foreign Service or the personnel office, (2) future placement and growth potential, and (3) the needs of the Service for the applicant's skills determines which applicant, or applicants, are qualified for reappointment and the appointment class that is considered to be appropriate. An Overseas Specialist may not be reappointed until and unless an overseas assignment has been identified. The Director, Office of Personnel (M/P or VOA/P) is responsible for initiating appointment action. Any voluntary applicant who refuses an offer of reappointment will not be considered for reappointment again.

### **§ 501.9 Interchange of FSOs between Broadcasting Board of Governors and other Foreign Affairs Agencies.**

Foreign Service Officers (FSOs) desiring transfer from one agency to another may apply under the following provisions:

(a) *Applications.* Applications for interchange appointments should be

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sent to the Board of Examiners for the Foreign Service, Department of State, Washington, DC 20520.

(b) *Certification and approval.* (1) When a Foreign Service Officer of another Foreign Affairs Agency wishes to transfer to the Broadcasting Board of Governors, a certification of need is required from the Director, Office of Personnel, Broadcasting Board of Governors, and approval is required by the Director of Personnel for the other agency for the officer's release to Broadcasting Board of Governors.

(2) When a Broadcasting Board of Governors FSO wishes to transfer to another Foreign Affairs Agency, a certification of need is required from the Director of Personnel of the other Agency, and approval is required by the Director, Office of Personnel, Broadcasting Board of Governors, for the officer's release to that Agency.

(3) A review by the Board of Examiners for the Foreign Service will certify the eligibility of candidates for exchange. BEX will notify the Office of Personnel, Broadcasting Board of Governors when a Foreign Service Officer of another Agency has been approved for transfer and Broadcasting Board of Governors will process the necessary employment papers.

(4) A new FSO appointment for officers transferring between another Foreign Affairs Agency and Broadcasting Board of Governors is not required.

### **PART 502—DOMESTIC REQUESTS FOR BROADCASTING BOARD OF GOVERNORS PROGRAM MATERIALS**

Sec.

502.1 Authority and scope.

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502.7 Denial of requests.

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AUTHORITY: 22 U.S.C. 1461, 1461-1a.

## United States Agency for Global Media

## § 502.3

SOURCE: 78 FR 39585, July 2, 2013, unless otherwise noted.

### § 502.1 Authority and scope.

(a) *Authority for this part.* This part is pursuant to Section 1078 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, as codified in 22 U.S.C. 1461, 1461-1a and the U.S. International Broadcasting Act, 22 U.S.C. 6201 et seq.

(b) *Scope.* This part applies to the public and all divisions of the Federal Government supervised by the Broadcasting Board of Governors under the U.S. International Broadcasting Act of 1994 (collectively “the Agency”). These regulations only cover the procedures for responding to domestic requests for Agency program materials.

(c) *Summary.* (1) The Broadcasting Board of Governors supervises all U.S. non-military international broadcasting activities in accordance with the broadcasting principles and standards in the U.S. International Broadcasting Act of 1994, 22 U.S.C. 6201 et seq., including consistency with the broad foreign policy objectives of the United States.

(2) As stated in the U.S. International Broadcasting Act of 1994, it is the policy of the United States to promote freedom of opinion and expression and to open communication of information and ideas among the people of the world. The Agency has adopted as its mission statement “to inform, engage, and connect people around the world in support of freedom and democracy.”

(3) It is the Agency’s policy to make its program materials available, upon request, whenever doing so is consistent with all statutory authorities, prohibitions, principles, and standards. However, the Agency reserves the right to deny requests for program materials under circumstances described in Section 502.7 of this regulation.

(4) Pursuant to section 501 of the U.S. Information and Educational Exchange Act, as amended, as codified in 22 U.S.C. 1461, the Agency may, upon request, provide members of the public, organizations, and media with program materials which the Agency disseminated abroad, in accordance with these regulations.

(5) Pursuant to Section 208 of Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, as amended, as codified at 22 U.S.C. 1461-1a, the Agency is prohibited from using appropriated funds to influence public opinion in the United States, however, the statute clarifies that the Agency may:

(i) Provide information about its operations, programs, or program materials to the media, the public, or Congress in accordance with applicable law;

(ii) Make program materials available in the United States, when appropriate, and in accordance with other applicable law.

### § 502.2 Definitions.

*As used in this part:*

(a) *Media entity* means any person or entity, that actively gathers information of potential interest to a segment of the public, turns gathered information into a distinct work, or distributes that work to an audience within the United States, and otherwise serves the purposes described in § 502.4.

(b) *Organization* means any corporation, trust, association, cooperative, or other group organized primarily for scientific, educational, service, charitable, or similar purpose, including but not limited to institutions of higher education, and otherwise serves the purposes described in § 502.4.

(c) *Program materials* means radio broadcasts, television broadcasts, and Internet content that the Agency disseminates to audiences outside of the United States, pursuant to: The U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.); The U.S. International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.); The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.); or The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.).

(d) *Requestor* means any private person or entity within the United States that requests program materials from the Agency.

### § 502.3 Availability of program materials on public Web sites.

(a) The Agency makes program materials available to Requestors through the Agency’s news and information

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Web sites designed for foreign audiences. To access currently-available Agency program materials, please visit *www.voanews.com* and *www.martinoticias.com*. The homepages of these Web sites display a portion of the Agency's most recent news reporting. Additional program materials are available through the Web sites' search functions.

(b) Program materials are available on Agency Web sites, and may be removed from Agency Web sites solely at the Agency's discretion. The Agency will remove program materials from Agency Web sites when a National Archives and Records Administration (NARA) records schedule goes into effect, or when required by licensing agreements with third-party copyright holders. Once these program materials have been removed from Agency Web sites, they are no longer available from the Agency.

(1) When full programs are removed from the Agency's Web sites in accordance with a NARA records schedule, programs designated as permanent will be transferred to NARA. For information on how to request Agency program materials that have been transferred to NARA, see the Agency's records schedules and NARA's regulations at *www.nara.gov*.

(2) Programs designated as temporary under a NARA records schedule will not be retained by the Agency once they are removed from the Agency's Web sites and are no longer needed for the Agency's use.

(c) Segments incorporated into final programs, including music, interviews, reports, and other program elements, will not be transferred to NARA independently of full program recordings, and will not be available after they have been removed from Agency Web sites.

(d) Draft program materials, and any other program materials not selected for dissemination abroad, are not available.

(e) The Agency shall determine the method of making program materials available, as well as the file type, file format, resolution, and storage medium(s) that are available. Program materials are only available in the same form (i.e. radio or television file-

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type and file format) and language in which the Agency disseminated them abroad.

[78 FR 39585, July 2, 2013, as amended at 78 FR 67026, Nov. 8, 2013]

### § 502.4 Media or organization one-time requests for broadcast quality agency program materials.

Upon request, the Agency may provide a broadcast-quality copy of Agency program materials to media entities, educational organizations, not-for-profit corporations, or other requestors. Requestors will be informed if materials are subject to third party content holders' restrictions. One-time requests for broadcast quality copies of Agency program materials should be directed to:

(a) The Voice of America Office of Public Relations for broadcast-quality copies of Voice of America program materials; and

(b) The TV Marti Division of the Office of Cuba Broadcasting for broadcast-quality copies of TV or Radio Marti program materials.

[78 FR 67026, Nov. 8, 2013]

### § 502.5 Media or organization requests for ongoing subscriptions to broadcast quality agency program materials

(a) Upon request, the Agency may make program materials available on an ongoing basis to Media entities, or other organizations, through a subscription agreement, provided that the Agency determines that entering into a subscription agreement to make program materials available on an ongoing basis would be consistent with the Agency's mission and authorities. Requested, ongoing subscription agreements must be consistent with the Agency's Policy for domestic distribution which incorporates the Broadcasting principles and standards and other requirements, found in 22 U.S.C. 1461, 1461-1a, 1462, 6201, 6202, 6203, 6204, 6205, 6206; Pub. L. 112-239, section 1078(b), 126 Stat. 1632, 1958; agreements with third-parties that hold a copyright in Agency program materials; and Terms of Use on Agency Web sites. Requestors shall secure all necessary

licenses from all persons or organizations that hold a copyright in any portion of program materials before making any use of those program materials, except uses of program materials permitted by the Copyright Act of 1976, as amended.

(b) Media entities or other organizations may request ongoing subscriptions by filling out an application form found on the Web site for the Direct System, the Agency's professional distribution system.

[78 FR 67026, Nov. 8, 2013]

**§ 502.6 Terms of use for accessing program materials available on agency Web sites.**

(a) By accessing Agency Web sites, Requestors agree to all the Terms of Use available on those Web sites.

(b) All Requestors are advised that Agency program materials may contain third-party copyrighted material, unless the Agency specifically informs the Requestor otherwise. Accordingly, and as further explained in the Terms of Use mentioned above, by using Agency Web sites to access program materials:

(1) The Requestor agrees that he or she is solely responsible for his or her use of program materials provided by the Agency and any copyrighted portion(s) of those materials;

(2) The Requestor agrees that he or she shall secure all necessary licenses from all persons or organizations that hold a copyright in any portion of requested program materials before making any use of those program materials, except uses of program materials permitted by the Copyright Act of 1976, as amended.

[78 FR 39585, July 2, 2013, as amended at 78 FR 67026, Nov. 8, 2013]

**§ 502.7 Denial of requests.**

(a) The Agency reserves the right to deny any request for program materials made pursuant to these regulations for cause, including but not limited to the following circumstances:

(1) For a Requestor's failure to comply with the Terms of Use on Agency Web sites;

(2) For a Requestor's failure to secure necessary rights and licenses to use

third-party copyrighted materials when the Requestor uses Agency program materials in any way not explicitly permitted by the Copyright Act of 1976, as amended;

(3) When the Agency's distribution of program materials is restricted by an agreement with a third-party that holds a copyright in a portion of Agency program materials;

(4) If providing the requested materials would be inconsistent with the Agency's statutory authorities, the broadcasting element's charter, or any applicable law or regulation.

(b) For more information on the criteria for accepting or denying requests, please see the Agency's policy for domestic distribution, available at [www.bbg.gov](http://www.bbg.gov).

**§ 502.8 Fees.**

(a) The Agency makes program material available at no cost on [www.voanews.com](http://www.voanews.com) and [www.martinoticias.com](http://www.martinoticias.com).

(b) The Agency may collect a fee for reimbursement of the reasonable costs incurred to fulfill a request for Agency program materials, including ongoing subscriptions for Media entities and one-time requests for broadcast-quality copies of Agency program materials. Fees charged for ongoing subscriptions, if any, will be outlined in an agreement between the Media entity and the Agency.

(c) The Agency reserves the right to establish and change fees in accordance with applicable law and regulation.

**PART 503—FREEDOM OF INFORMATION ACT REGULATION**

Sec.

503.1 Introduction and definitions.

503.2 Making a request.

503.3 Availability of agency records.

503.4 Time limits.

503.5 Records available for public inspection.

503.6 Restrictions on some agency records.

503.7 Fees.

503.8 Exemptions.

503.9 Electronic records.

AUTHORITY: 5 U.S.C. 552 Reform Act of 1986 as amended by Pub. L. 99-570; sec. 1801-1804; U.S.C. 2658; 5 U.S.C. 301; 13 U.S.C. 8, E.O. 10477, as amended; 47 FR 9320, Apr. 2, 1982, E.O. 12356. 5 U.S.C. 552 (1988 & Supp. III 1991)