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Description of document: United States Agency for Global Media (USAGM)
Editorial Firewall Rules and Training Slides (records undated)

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Source of document: Freedom of Information Act Request
The Broadcasting Board of Governors (BBG)
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U.S. AGENCY FOR
GLOBAL MEDIA

Office of the General Counsel
Freedom of Information Act Office

330 Independence Avenue SW | Washington, DC 20237 | usagm.gov

September 7, 2023

Re: FOIA File No.: **FOIA23-095**

By this letter, the U.S. Agency for Global Media grants the Freedom of Information Act (FOIA) request you submitted to the agency seeking records related to the agency's editorial firewall.

You submitted your request via FOIA.gov on September 1, 2023 and specifically sought:

- 1) A copy of the "firewall regulations" distributed internally to USAGM employees in 2021.
- 2) A copy of the training slides used for training in the firewall rules in 2021, after the departure of former CEO Pack.

The agency acknowledged your request on September 5, 2023 and assigned it request tracking number FOIA23-095.

The Freedom of Information Act was enacted to "ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *Nat'l Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). The law provides the public with the right to receive records and information from the government in order to further democratic principles and allow for independent evaluation of government action.

In furtherance of those interests, we conducted a search that was reasonably calculated to identify the records you sought. We first consulted individuals within the Office of General Counsel (OGC) responsible for the drafting of the firewall rules and regulations. Within OGC, we located a copy of USAGM's Broadcasting Administrative Manual, Part II, Section 531, which describes the statutory firewall. Sources within OGC indicated that any training related to the



firewall would have been presented by the Voice of America News Standards and Best Practices Editor. Subsequent queries to the Voice of America identified a 26-page training slide presented by the News Standards and Best Practices editor to all USAGM personnel during the onboarding process. We release both documents to you today in full and without redaction.

This completes the processing of your FOIA request. If you disagree with our determination, you may submit an administrative appeal of this determination to USAGM's Access Appeals Board. Your appeal must be transmitted by email to foia@usagm.gov within 90 days of the date of this letter. You should clearly identify your submission as a FOIA appeal and you should include any information you believe indicates an error in this determination. If you need additional assistance submitting your appeal or have questions about this determination, you can contact the USAGM FOIA Public Liaison, Stephen McGinley at smcginley@usagm.gov or 202-920-2366.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Pollack', is centered below the text 'Sincerely,'.

Matthew Pollack, Assistant General Counsel
Office of General Counsel
U.S. Agency for Global Media



USAGM Broadcasting Administrative Manual, Part II, Section 531

TITLE 2 GENERAL ADMINISTRATION, PART 531— STATUTORY FIREWALL AND HIGHEST STANDARDS OF PROFESSIONAL JOURNALISM

Sections

531.1 Overview

531.2 Independence and Best Practices

531.3 Firewall

531.4 Definitions

531.1 Overview: The Broadcasting Board of Governors, referred to as the U.S. Agency for Global Media (USAGM), per §305(a)(22) of the IBA, currently provides public funds to five news media networks: the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB). Pursuant to International Broadcasting Act of 1994, as amended (22 U.S.C. 6201 et seq.) (“the IBA” or “the Act”), and other applicable authorities:

- (a) All USAGM-funded networks must adhere to the highest professional standards of journalism, pursuant to §303(a)(5) of the IBA, in order to produce news which is consistently reliable and authoritative, accurate, objective, and comprehensive, per §303(b) of IBA. Accordingly, USAGM networks necessarily enjoy full editorial independence in order to maintain their “professional independence and integrity,” per §305(b) of the IBA. This statutorily mandated firewall protects the independence of the networks by insulating their editorial decisions from interference from those outside of the network, or from impermissible considerations, as set forth herein.
- (b) The existence of a firewall does not mean the absence of oversight. This firewall shall not be construed to limit USAGM oversight conducted in a manner consistent with that conducted by other media organizations which operate editorially independent news divisions that adhere to the highest standards of journalism; nor does it prevent federal officials from treating the networks like any other news organization: e.g., they may seek a correction; provide an interview; serve as a source; or otherwise interact in the same manner as they do with any other news organization.
- (c) Editorial independence and adherence to the highest standards of professional journalism

- (c) Editorial independence and adherence to the highest standards of professional journalism do not prevent VOA from adhering fully to each of the elements of its Charter. The VOA Charter, currently codified at §303(c) of the IBA, states that VOA will serve as a consistently reliable and authoritative source of news, which itself will be accurate, objective, and comprehensive; represent America as a whole, and thereby present a balanced and comprehensive projection of significant American thought and institutions; and present the policies of the United States clearly and effectively, as well as responsible discussions and opinion on such policies. Editorial independence and adherence to the highest standards of professional journalism, as described herein, allow for audiences to rely on VOA to be truthful and accurate. Accordingly, these principles are considered essential to meeting the Charter's mandate that "to be effective, the Voice of America must win the attention and respect of listeners" per § 303(c) of the IBA; S. Rep. No. 703, 94 Cong., 2nd Sess. 15 (1976), reprinted in 1976 U.S.C.C.A.N. 1555, 1569; and H.R. Conf. Rep. No. 432, 105 Cong., 2nd Sess. 127 (1998).
- (d) Editorial independence and adherence to the highest standards of professional journalism do not preclude any news organization from publishing editorials or opinion pieces, clearly marked as such; as described in paragraph 531.2(d)(5) below, VOA is required to carry editorials which present the views of the U.S. Government.

531.2 Independence and Best Practices:

- (a) USAGM-funded networks each enjoy full editorial independence, as that term is defined and understood by best practices of journalism.
- (b) Editorial independence includes, but is not limited to the fact that only individuals within the network may make any decisions with respect to newsgathering or reporting. USAGM networks and their employees, including the heads of each network, are fully insulated from any political or other external pressures or processes that would be inconsistent with the highest standards of professional journalism.
- (c) The heads of each network, and everyone else therein, are required at all times to adhere to the highest professional standards of journalism, and must take that into account when carrying out all their responsibilities. The highest professional standards of journalism also require that all elements of newsgathering, editing, and reporting are carried out by professional journalists trained in and held to the highest industry standards.
- (d) Each network is required to establish and maintain written rules setting forth the journalistic best practices for their organization, based upon the highest professional standards of professional journalism. These best practices also preclude any journalist or other covered individuals at a network, including the heads of the networks, from engaging in any activity that would call into question their neutrality or impartiality.

531.3 Firewall:

- (a) A statutory 'firewall,' provided for in §305(b) of the IBA, and incident to adherence to the highest professional standards of broadcast journalism, exists around USAGM-funded networks, their products, and staff in order to protect their "professional independence and integrity."

- (b) Within any credible news organization, a firewall exists between anybody involved with any aspect of journalism (e.g., the creation, editing, reporting, distributing, etc., of content) and everyone else in the organization. For purposes of USAGM, firewalls exist between the newsroom of a USAGM-network; everyone else in the organization; and the Executive Branch of the U.S. Government, as described herein.
- (c) This “firewall” is understood to be violated when any person within the Executive Branch or a Network, but outside the newsroom, attempts to direct, pressure, coerce, threaten, interfere with, or otherwise impermissibly influence any of the USAGM networks, including their leadership, officers, employees, or staff, in the performance of their journalistic and broadcasting duties and activities. It is also violated when someone inside the newsroom acts in furtherance of or pursuant to such impermissible influence. Such impermissible influence would undermine the journalistic and editorial independence, and thus the credibility, of that USAGM network, and their reporters, editors, or other journalists.
- (d) The firewall is critical to ensuring that the editors, reporters, and other journalists of the USAGM network make the decisions on what stories to cover and how they are covered, and that those decisions are ultimately governed by the highest standards of professional journalism.
- (e) What the firewall is not.
 - (1) The firewall is not meant to discourage journalists from interviewing U.S. Government officials or to discourage such officials from appearing on USAGM-funded programs.
 - (2) The firewall does not prevent officers or employees within the Executive Branch, including the State Department, from engaging with or speaking about USAGM networks as they might with any other news organization. Such interaction could include but is not limited to:
 - (i) publicly or privately commenting on USAGM stories;
 - (ii) publicly or privately reaching out to journalists in the same manner that they would do with any other journalist;
 - (iii) publicly or privately reaching out to network staff in the same manner that they would do with any other network staff; and
 - (iv) otherwise interacting with journalists and other network staff in the same manner that they would do with such staffs’ private sector counterparts.
 - (3) The firewall does not prevent a USAGM CEO, Network Head, or Board from undertaking the same type of direction and oversight that those in equivalent leadership positions in or overseeing other reputable news organizations may provide, in a manner consistent with the highest standards of professional journalism.

- (4) In determining which languages to broadcast, the Agency has prioritized certain countries and audiences, such as those under authoritarian rule. The firewall does not prevent the USAGM CEO or Board from otherwise prioritizing certain audiences or languages, consistent with the statutory language service review that is carried out per IBA §305(a)(4) to determine whether the continued broadcasting in various languages are furthering the mission of the networks, and per IBA §303(a)(1), are thus consistent with the broad foreign policy objectives of the United States.
- (5) Per IBA §303(b)(3), the firewall does not prohibit the publication of editorials and other opinion pieces by U.S. Government officials, marked clearly as such, on VOA, expressing policy positions of the U.S. Government.

531.4 Definitions

- (a) *Audience* or *audiences*: refers to foreign audiences overseas, the only audiences to which USAGM is authorized to seek to reach; USAGM or its networks are not authorized to target audiences in the United States, and must take steps set forth in law and regulation to avoid these audiences.
- (b) *Board*: refers to the Board of a Network; or the Advisory Board.
- (c) *everyone else in the organization*: in describing a USAGM Network, refers to anyone within a Network who, pursuant to the structure of that Network or the highest standards of professional journalism, would be considered to not be part of the newsroom, i.e., involved with carrying out any aspect of journalism (e.g., the creation, editing, reporting, distributing, etc., of content), and thus outside the firewall. By definition the USAGM CEO is not within a Network.
- (d) *Network, USAGM-funded Network, or USAGM Network*: refers to the Voice of America (VOA), Radio Free Europe, Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB); or any other network, broadcaster, or grantee which falls under the Act, or is overseen by USAGM or a USAGM network. It does not include any officer or employee of USAGM not within VOA or OCB, including the Advisory Board or the Chief Executive Officer.
- (e) *newsroom*: refers to the news division of a USAGM-Network. The scope of the news division depends on the structure of the Network. Depending how a Network is organized the head of that Network may or may not be considered to be within the news division. The Board of a Network is considered to be outside the news division. Those within the news division must adhere to the highest professional standards of journalism in carrying out their responsibilities. Even if outside the newsroom, as set forth herein, the head of a network is still required to act in accordance with the highest standards of professional journalism in carrying out their roles with respect to the journalism, and thus ensuring the professional “independence and integrity” of the network.

- (f) *highest professional standards of journalism*: means the highest professional standards in the field of journalism. Each network is required to promulgate, maintain, and abide by a code of journalistic ethics and best practices that fully comports with the highest professional standards in the field of journalism, a violation of which is required to be reported to the Congress, per a recurring provision of the Agency’s annual appropriation act.
- (g) *highest standards*: unless otherwise indicated, refers to “highest professional standards of journalism”
- (h) *other applicable authorities*: includes the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.); the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.); the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.).
- (i) *reputable news organization*: a news organization that adheres to the highest professional standards of journalism and has a firewall which insulates the news side of the operation, to ensure that editorial decisions are not influenced in a manner or by factors inconsistent with the highest standards of professional journalism.
- (j) *USAGM CEO* or *CEO*: refers to the CEO authorized under IBA §304. Until such time as the first Presidentially nominated, senate confirmed CEO is appointed, USAGM CEO shall also refer to the Federal Board.



The Editorial Firewall



A Free Press Matters

Background

- ▶ Editorial firewalls exist in commercial news organizations.
- ▶ They prevent the business side of a news organization – advertising, marketing and circulation – from dictating coverage to the news side.
- ▶ VOA doesn't have ads or income streams from the outside, but our editorial firewall performs a similar function.



The Law: The 1976 Charter

- ▶ VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective and comprehensive.
- ▶ VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.
- ▶ VOA will present the policies of the United States clearly and effectively and will also present responsible discussions and opinions on these policies.



The Law: The International Broadcasting Act of 1994

§6202. Standards and principles

(a) Broadcasting standards

United States international broadcasting shall-

- (1) be consistent with the broad foreign policy objectives of the United States;
- (2) be consistent with the international telecommunications policies and treaty obligations of the United States;
- (3) not duplicate the activities of private United States broadcasters;
- (4) not duplicate the activities of government supported broadcasting entities of other democratic nations;
- (5) be conducted in accordance with the highest professional standards of broadcast journalism;
- (6) be based on reliable information about its potential audience;
- (7) be designed so as to effectively reach a significant audience; and
- (8) promote respect for human rights, including freedom of religion.

(b) Broadcasting principles

United States international broadcasting shall include-

- (1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;
- (2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;



The Editorial Firewall

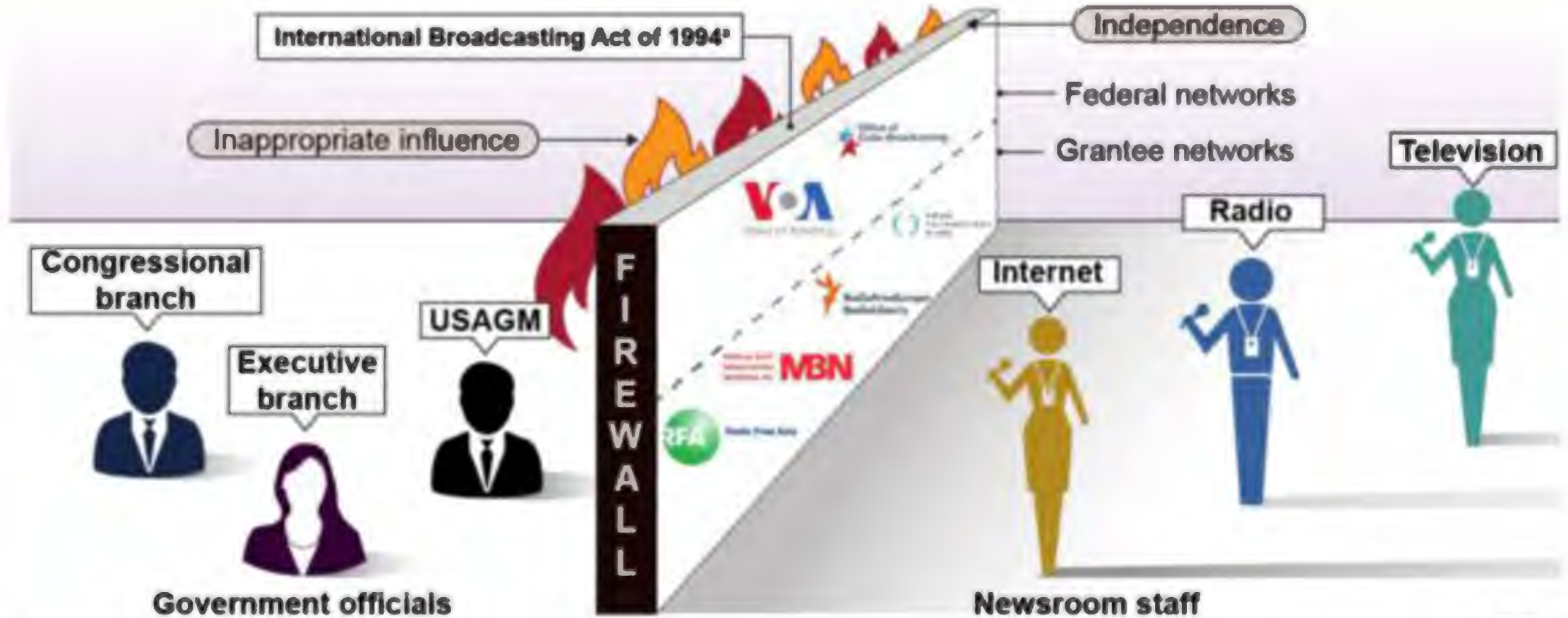
- ▶ As it appears in the VOA News Standards & Best Practices Guide:

The firewall exists to maintain the credibility of reporting by VOA journalists. The firewall is violated whenever another U.S. government agency or a U.S. government official tries to influence our work by putting undue pressure on a VOA journalist or on the agency itself or takes any other action that may undermine the journalistic credibility or independence of VOA journalists.



The editorial firewall

GAO illustration



Source: GAO. | GAO-22-104017

2016: National Defense Authorization Act

The legislation does not alter the consolidation achieved in 1994, but it does prevent the Board and the international broadcasting entities from being merged into the State Department, where the credibility and journalistic integrity of the broadcasters would be threatened. The rationale for creating this arms-length distance from the State Department is two-fold: (1) to provide “deniability” for the Department when foreign governments voice their complaints about specific broadcasts; and (2) to provide a “firewall” between the Department and the broadcasters to ensure the integrity of the journalism.



The Law: FY 2021

National Defense Authorization Act

(A) the Chief Executive Officer fully respects the professional integrity and editorial independence of United States Agency for Global Media broadcasters, networks, and grantees; and

(B) agency networks, broadcasters, and grantees adhere to the highest professional standards and ethics of journalism, including taking necessary actions to uphold professional standards to produce consistently reliable and authoritative, accurate, objective, and comprehensive news and information...



The Firewall: Issues

In 2020, then-new USAGM leadership removed the firewall protection by announcing the move in the Federal Register.

Then, whistleblowers accused leadership of dismantling the editorial protections against government interference.



The Firewall: Issues

In October 2021, the Government Accountability Office – which audits U.S. government agencies for Congress – released a report about the firewall. The report recommended that:

“Congress should consider legislation to define the parameters of USAGM’s firewall, such as by describing what is and is not permissible with regard to network editorial independence.”

The next month, a court issued an injunction preventing further action, saying the leadership had violated VOA journalists’ First Amendment rights.



The Firewall: Issues

When USAGM leadership changed in January 2021, one of its first steps was to formally reinstate the firewall.

In May 2023, the government's Office of Special Counsel released results of an independent investigation that found earlier leadership had breached editorial firewall regulations.

These developments underscore the firewall's importance to editorial independence.



Possible Violations

- ▶ The firewall can be breached internally. Anyone from VOA or USAGM senior management through all government-service levels can commit a firewall violation – even without realizing it – or be subjected to a possible firewall violation.
- ▶ An individual or office might impose restrictions that affect VOA journalists' editorial independence.



Not a Violation

- ▶ It is **not** a firewall violation for a supervisor, service chief or division director to suggest story ideas or to discuss coverage plans.
- ▶ Nor is it a firewall violation for an editor to make changes in a reporter's or writer's script. That's an editor's job. However, an editor should always discuss the changes with the reporter or writer before final approval.



Possible Violations

- ▶ A direct request from non-VOA personnel to a VOA journalist for notes or unpublished video or audio recordings may be a firewall violation.
- ▶ **Under no circumstances** should a VOA employee or contractor turn over unaired or unpublished news coverage to a third party without consent from VOA senior management.
- ▶ Such requests **must** be immediately directed to the VOA director and the Office of General Counsel. Service chiefs and division directors should also be advised of the request.



Not a Violation

- ▶ However, it is not a firewall violation if a court, law enforcement agency or other person or organization requests **through appropriate legal authority** that VOA turn over reporters' notes or unpublished content. Such requests must be relayed immediately to your service chief, division director, the VOA director's office and the Office of General Counsel.
- ▶ The firewall is not meant to discourage VOA journalists from interviewing government officials, including on VOA programs. Its purpose is to ensure that VOA journalists and editors make the final decisions on what and how stories are covered.



Reporting Violations

- ▶ If you suspect a firewall violation from outside has occurred, immediately notify your supervisor, service chief and division director. They will then notify the VOA director and Office of General Counsel (OGC). If necessary, VOA Standards will be alerted.
- ▶ If you suspect an **internal** firewall violation, immediately notify VOA Standards. Its editor(s) will review the allegation and report any findings to the VOA director and OGC.
- ▶ In all cases, the VOA director and OGC will determine what action, if any, to take.



Scenario #1

“It has come to the attention of the [Information Technology] Directorate and the IBB Office of Security that some agency employees would like to download material related to the story that appeared on the front page of The Washington Post regarding leaked classified material about the US efforts in Afghanistan and Pakistan. There are a number of documents currently available on the Internet that are classified as secret or higher. While this material has been leaked, it has not been officially de-classified and, for our purposes, is still considered classified material. Our agency network, storage systems and email are not classified systems and cannot have classified material stored on them. Please do not download, browse or email any of these files from agency computers.”



Scenario #1 - Outcome

- ▶ The original ban was a violation – not because VOA doesn't have to follow presidential directives, but because someone outside of VOA directly interfered with news coverage.
- ▶ VOA and senior management of what was then the Broadcasting Board of Governors stepped in, reaching a compromise to permit certain VOA reporters and editors to access the documents.



Scenario #2

- ▶ A VOA language service reporter produces an exclusive story about one nation violating international sanctions by doing business with a restricted country.
- ▶ Another U.S. government agency contacts the VOA reporter and asks for additional information that was not included in the report.
- ▶ What should the reporter do?

Is this a firewall violation?



Scenario #2 - Outcome

- ▶ The request is a firewall violation because someone from another federal agency asked a VOA journalist for unaired/unpublished content.
- ▶ The reporter should thank the individual for calling or emailing but respond that this must be reported to a supervisor.



Scenario #3

- ▶ A spokesperson representing a U.S. embassy contacts the VOA reporter in that country about a story the reporter wrote. The spokesperson says that the story contains a factual error that needs correcting – and that the story unfairly portrayed the U.S. position and should be rewritten.

Is this a firewall violation?



Scenario #3 - Outcome

- ▶ An outside U.S. government representative calling for VOA to rewrite a story violates the firewall. The reporter and editor – and perhaps another editor not originally involved in the story – can review the story to ensure that it is accurate, comprehensive and fair.
- ▶ However, pointing out a factual error is not a firewall violation. The error should be corrected on all platforms – and, preferably, with the same prominence as the error.



Scenario #4

- ▶ The News Center produces a story on efforts to expand LGBTQ rights in a particular country. The Language Service going into that country translates the story for broadcast and posts it on its website.
- ▶ That country's government contacts the VOA Director's Office and threatens to block the Language Service website and force an end to affiliate radio and TV relationships unless the story is taken down from Language Service and English websites. The VOA Director decides to prioritize a continued presence in the country and gives in to the demand.

Is this a firewall violation?



Scenario #4 - Outcome

- ▶ The request from the country's government is **not** a firewall violation. Firewall violations can only occur when the interference comes from a person, agency or office within the U.S. government.
- ▶ However, the VOA director's unilateral decision is an internal firewall violation, because it puts business concerns ahead of editorial independence.
- ▶ This scenario presents significant complications with no good outcome. Either VOA loses access to an audience, or it breaks principle, which is the VOA Charter.



Summary

- ▶ Remember: The editorial firewall prohibits interference by any **U.S. government office or official** in the independent, reliable reporting of news. The firewall ensures that VOA journalists decide what issues to cover and how to cover them. It protects editorial independence.
- ▶ Potential firewall violations often are complex; don't try to handle them yourself.
- ▶ If you suspect a violation from outside VOA, notify your supervisor, service chief or division director.
- ▶ If it's **internal** violation, contact VOAStandards@voanews.com.

