



U.S. AGENCY FOR
GLOBAL MEDIA

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CONSOLIDATION

WHAT WAS FOUND

Observers of U.S. civilian international broadcasting have long recognized that its management structure is broken. In part, the reason for the dysfunction is historical. The first U.S. civilian international broadcaster, the Voice of America (VOA), was created in 1942 during World War II to combat Nazi propaganda with accurate and unbiased news and information. Radio Free Europe (RFE) and Radio Liberty (RL), targeting Soviet satellite states and the Soviet Union itself, respectively, emerged during the Cold War as “surrogate broadcasters,” providing local news to places without a free media. Thereafter, other broadcasters were created in response to America’s foreign policy needs of the moment, resulting in one more federal entity, the Office of Cuba Broadcasting, and two more surrogates, Radio Free Asia (RFA) and the Middle East Broadcasting Networks (MBN) – five networks in total.

Criticism of U.S. civilian international broadcasting – namely its inability to effectively fulfill its mission and, per its legal mandate, to advance U.S. foreign policy – has greatly intensified, especially over the past decade. For example, in 2012, former Chair of the Broadcasting Board of Governors (BBG) James Glassman [averred](#) that the institution was “structurally a mess.” The very next year, then-Secretary of State Hillary Clinton [testified](#) to the House Foreign Affairs Committee, “Our Broadcasting Board of Governors is practically defunct in terms of its capacity to be able to tell a message around the world.” By 2018, the *New York Times* [reported](#) that a succession of scandals had caused U.S. civilian international broadcasting to become “the news itself.” Also that year, the *Hill* [noted](#) that “[s]ince its inception, the BBG has been plagued by dysfunction and poor management.” Despite attempts at “reforms,” U.S. civilian international broadcasting remains unwieldy, inflexible, and, in turn, ineffective.

WHAT WAS DONE—AND WHY

Our adversaries are ramping up their misinformation and disinformation propaganda campaigns, especially China, but also North Korea, Iran, Russia, and others. America needs an effective way to share America’s story with the world, to shine the light of truth in dark, repressive places, and to promote our principles and values. The present system of U.S. civilian

international broadcasting is not adequate to meet that mandated function in service to U.S. foreign policy.

At CEO Michael Pack's direction, USAGM and other federal entities have started analyzing the prospect of consolidation, which would result in the creation of a single network. The new network would simply be called "Voice of America," since that is the most universally-recognized name among the five. The new VOA would be divided into regions around the world rather than into separate networks. It would continue to use all current brands, for example, RFA for some broadcasting into China. Because the surrogates have been so successful in their target areas, the new entity would be built around them in the parts of the world in which they currently operate. For instance, MBN would become the VOA Middle East Service and RL would become the VOA Russia Service, incorporating VOA Russian. These new regional services would have the mission of both the surrogate and VOA. Since MBN has the same mission of VOA, that merger should not prove difficult. The two missions, surrogate and VOA, have been converging over the years, anyway, particularly with the growth of the internet.

Few Americans are aware that USAGM has five disparate networks with different missions and management structures – a redundant and ungainly system. The new VOA would have regional language services all over the world, but just one English-language newsroom and one consolidated back-office. Most Americans already believe that U.S. civilian international broadcasting is structured this way. This would prove a simple, rational, and effective structure.

The new consolidated VOA would be:

- **More Manageable.** In the current system, each network has its own director, acting independently of the other networks. No other international broadcaster has such a system. With the new VOA, there would be a clear reporting structure, like a traditional broadcaster.
- **More Accountable to Congress.** One group of senior managers would be much easier to hold accountable. There would be no shifting of blame or separate reporting.
- **More Easily Held to High Journalistic Standards.** With only one organization and a clear hierarchy, the leadership would be able to more easily hold senior managers accountable for maintaining high journalistic standards. This would be done not to allow leadership to control editorial direction, but rather to better guarantee the ability to respond to violations of the agency's broadcasting [Standards & Principles](#) and transgressions of the [VOA Charter](#).
- **More Aligned with U.S. Foreign Policy.** The U.S. Department of State, the National Security Council, and other federal entities would still have no control over how journalists report the news, and rightly so. However, the new VOA would be more responsive to changes in U.S. foreign policy. The purpose of U.S. civilian international broadcasting is to disseminate the American experience in service of the national interest. The new VOA would keep that focus.

- **More Efficient.** Many functions would be merged. There would be no need for five human relations departments, five finance departments, five communications offices, multiple Content Management Systems, etc. Currently, duplicative language services, such as VOA Russian and RFE/RL Russian as well as VOA Mandarin and RFA Mandarin, would be merged. The success of Current Time, a 24-hour Russian service, jointly run by VOA and RFE/RL, proves that this model works. There would be enormous cost savings for the American taxpayer, which could be redeployed to journalistic initiatives that advance the agency's strategic mission. USAGM is currently funded to the tune of about \$800 million, annually. The analysis, thus far, finds that consolidation would save the American taxpayer more than \$170 million within just three to five years.
- **More Effective.** The new VOA, one well-managed organization, aligned with U.S. foreign policy, adhering to the highest standards of journalism, would effectively counter our adversaries' propaganda and be a true American voice for freedom and democracy.

WHAT SHOULD BE DONE MOVING FORWARD

USAGM is conducting a detailed assessment, including a legal analysis, above all, to gauge the viability of bringing together federal networks and grantees. USAGM is also undertaking budget and logistical analyses. Beyond that, the prospect of consolidation would need to gain support from all of U.S. civilian international broadcasting's stakeholders, including Congress and the White House. USAGM expects that a lively debate about this prospect would ensue. But that debate would prove an essential part of defining the ways in which U.S. civilian international broadcasting would best advance U.S. foreign policy – and America's national interest writ large – in the decades ahead.



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INTERNET FREEDOM

WHAT WAS FOUND

Internet freedom is under assault around the world. Regimes and sub-state actors are stifling human liberty by employing technologies that prevent people from using digital means to communicate and access information. Because freedom of expression is indispensable to democracy, Congress has provided funding to the U.S. Agency for Global Media (USAGM) – the home of U.S. civilian international broadcasting – to assist the advancement of internet freedom. The annual appropriation amount varies. It was \$15 million in FY 2017, \$13.8 million in FY 2018 and 2019, and \$20 million in FY 2020.

Michael Pack, who became the first Senate-confirmed CEO of USAGM in June 2020, deemed it a priority of the agency to embolden journalists, activists, and everyday citizens fighting for liberty by expanding their digital access to vital services while allowing them to evade censorship and surveillance. Internet firewalls are violations of the fundamental freedoms of thought and expression. They are indeed the “Berlin Walls of our time” and, thus, must too be conquered.

In 2016, USAGM created the [Office of Internet Freedom](#) (OIF) in order to direct Congress’s FY 2016 appropriation of \$15 million to firewall-circumvention technologies. Over the years, USAGM senior management diverted more and more of the funding to a separate entity that had been created within Radio Free Asia (RFA): the Open Technology Fund (OTF). That trend continued until OTF, which remains dedicated to backing only “open-source” technologies, was receiving almost all of the funding. In turn, USAGM’s Office of Internet Freedom was starved for resources and effectively put out of commission.

Immediately after CEO Pack started his three-year term, he ordered an across-the-board spending review to determine the validity of the agency’s financial environment and to take corrective action as needed to conform to statutory and regulatory requirements. OTF, which was being solely funded by USAGM, was part of this assessment. New USAGM senior management soon discovered numerous, alarming preexisting and ongoing instances of mismanagement and security and personnel violations.

The former Broadcasting Board of Governors (BBG) and Libby Liu, OTF’s Executive Director – and the former President of RFA – had broken off OTF from RFA in September 2019. Taking the

entire annual appropriation of U.S.-taxpayer funding, Ms. Liu incorporated OTF under her own name as an independent non-profit in the District of Columbia.

OTF then moved out of RFA and spent a significant amount of grant money to lease office space in the high-rent district of the capital's "K Street corridor." It proceeded to spend over \$2 million dollars to inflate staff salaries and benefits and host a lavish overseas conference. Further, as a separate entity, OTF immediately became a duplicative level of bureaucracy. It provided grants to civil-society organizations and causes that were not only already funded by other parts of the federal government, but unrelated to internet freedom.

USAGM – again, OTF's singular funding source – requested basic information from OTF about the way that it was spending millions of dollars generously provided by American taxpayers. It repeatedly refused to provide this information in direct violation of its most elementary contractual obligations. To this day, USAGM and the rest of the federal government know little about OTF's use of U.S.-taxpayer money. As recently as 2020, OTF was apparently paying foreign nationals as "technology fellows" up to \$65,000 a year, and a number of their identities remain unknown.

USAGM further received a referral from the Office of Inspector General (OIG) for the U.S. Department of State and USAGM concerning conflicts of interest at OTF. When the BBG and Ms. Liu broke off OTF as an independent non-profit in September 2019, they did so without adequate authorization from Congress. This created a conflict of interest. OTF already had a history of conflicts of interest, first documented in the 2015 OIG audit of RFA expenditures.

In 2020, OTF materially breached its grant agreement by refusing to provide reasonably-requested information necessary to conduct proper agency oversight. Perhaps most importantly, in direct violation of its grant agreement, OTF used grant funds for projects that had nothing to do with internet freedom, exceeding the authorized purposes of the Congressional appropriation for internet freedom programs. Further dealings with OTF as well as its principals and corporate officers were deemed to present a risk to the federal government.

WHAT WAS DONE—AND WHY

Because of these many disconcerting issues and the amount of records involved, USAGM contracted a law firm specializing in regulatory and compliance matters to conduct an independent investigation of aspects of OTF. Based upon findings resulting from an investigation conducted by McGuireWoods LLC into allegations made to the OIG and related matters, USAGM determined that OTF, its board, principals, and corporate officers committed irregularities seriously reflecting on the propriety of further federal government dealings with the grantee.

It was found that OTF's removal of records and its failure to provide information to USAGM could serve as a basis for debarment. Specifically, Ms. Liu directed her RFA e-mails be

transferred to OTF's servers and permanently deleted from RFA's servers—an order that was followed. Moreover, OTF refused to cooperate with USAGM requests for reasonable access to records, despite its obligation to do so under its grant agreement. For example, in formal correspondence between USAGM and OTF in August and September 2020, OTF refused to provide USAGM “every contract, grant agreement, and obligation that OTF has executed to date with every organization, entity, or person to which OTF disburses funds or provides material support.” OTF also objected to providing USAGM with a “a detailed description of the work done by that organization, entity, or person and any deliverables they have accomplished, and a list of any other U.S. federal agencies or grantees that provide additional funding to these same organizations, entities, or persons.”

Consequently, USAGM began debarment proceedings against OTF. A notice of proposed debarment was sent to OTF in December 2020 along with memoranda composed by McGuireWoods LLC, which cited evidence of OTF's lack of transparency and refusal to cooperate with USAGM, contrary to the grant agreement and related federal regulations, as reason for recommending debarment.

Concurrently, CEO Pack revived USAGM's Office of Internet Freedom in August 2020. Before OIF had been shelved by prior agency senior management, it was doing the same work as OTF, though with greater efficiency, security, oversight, and impact. And unlike OTF, it was and remains dedicated to supporting a range of firewall-circumvention technologies, not just those that are open source. It is USAGM's position that, because the challenges to internet freedom throughout the world are constantly evolving, the technologies deployed to meet them must be varied. While open-source technologies are effective in some places, they are simply not in others. As with other forms of investment, diversification is the optimal strategy.

Along with reopening OIF, USAGM reinstated a transparent and competitive grant process and began awarding funds to firewall-circumvention technologies. These funds will enable individuals around the world to more safely access and share news content and other digital information online. The two initial awardees were Psiphon and ACI, which use robust tools like VPN, SSH, and HTTP proxies. In FY 2020, Psiphon alone supported VOA Afaan Oromoo, Afghan, Amharic, Azerbaijani, Burmese, Chinese, Persian, Russian, Tibetan, Tigrigna, Urdu, Uzbek, Vietnamese, and English; RFE/RL Azeri, Belarussian, Chechen, Crimean, Farda (Persian), Kazakh, Kyrgyz, Russian, Tajik, Turkmen, Ukraine, and Uzbek; RFA Cantonese, Mandarin, Tibetan, Uyghur, and Vietnamese; MBN Alhurra and Radio Sawa, and; OCB Martí.

WHAT SHOULD BE DONE MOVING FORWARD

USAGM recommends that the agency continue to channel Congress's annual appropriations to the Office of Internet Freedom, which boasts an excellent track record of transparently funding a range of impactful circumvention technologies. USAGM also advises that Congress fund internet freedom at a much greater level in order to establish a government-wide internet firewall-circumvention campaign, one that would be led by an eminent tech expert. To be sure,

the annual appropriations have been helpful, but an amount like the FY 2020 level of \$20 million pales in comparison to what America's adversaries – like China, Iran, and North Korea – are spending in order to block access to the internet and quash freedom of expression and the truth.



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J-1 VISAS AND THE HIRING OF FOREIGN NATIONALS

WHAT WAS FOUND

Michael Pack became the first Senate-confirmed CEO of the U.S. Agency for Global Media (USAGM) in June 2020. Immediately after beginning his three-year tenure, he issued a freeze on new spending requests to survey agency operations, which had long been the subject of criticism. The objective was to determine the validity of agency operations and take corrective action as needed to conform to statutory and regulatory requirements. Holds on outlays like the one carried out at USAGM are routinely undertaken by new leadership at both private-sector entities and nonprofit organizations for the very same reason: to ensure that resources are being used not only effectively and efficiently, but also legally. This was an essential action, not least because it is the American taxpayer who generously funds the agency's annual budget of around \$800 million.

When reviewing budgetary operations, new USAGM senior management learned that the agency was relying heavily upon the U.S. Department of State's [J-1 visa program](#) to fulfill what were considered to be journalistic and technical needs that could not be first met by U.S. citizens. This was deemed to be an improper use of J-1 visas, for USAGM is required to follow [Presidential Executive Order 13788 on Buy American and Hire American](#).

The U.S. Department of State, which is in charge of issuing visas, describes the J-1 visa program as an "exchange" program, [noting](#) that it is meant to provide foreign nationals with an opportunity to "experience U.S. society and culture and engage with Americans." Similarly, U.S. Citizenship and Immigration Services [points out](#) that the J-1 visa program is "designed to promote the interchange of persons, knowledge, and skills, in the fields of education, arts, and science." As examples of "exchange visitors" under the J-1 visa program, it lists professors or scholars, research assistants, students, trainees, teachers, specialists, au pairs, and camp counselors. Notably missing are journalists. That is

perhaps, at least in part, because there are visa avenues available specifically for foreign nationals who are journalists.

USAGM's new senior management was also concerned to discover that, in violation of many federal government security protocols and personnel practices, the agency was rubber stamping J-1 visa applications and renewal requests—that is processing them without any semblance of a systematic procedural review. In fact, upon request, the agency was entirely unable to determine the number of foreign nationals it was employing through the J-1 visa program, let alone supply vital biographical details of those individuals. Previous agency senior management and the Broadcasting Board of Governors, which before managed the agency, had not disclosed this issue.

Moreover, the use of J-1 visas was wrapped up in the severe security violations and deficiencies left unaddressed by previous agency senior management that were identified in multiple agency assessments conducted by the U.S. Office of Personnel Management (OPM) and the Office of the Director of National Intelligence over the course of ten years, from 2010 to 2020. There were major concerns that USAGM had long been improperly vetting individuals hired through the J-1 visa program. In August 2020, USAGM released [OPM's most recent assessment](#), which was completed the month before, in July 2020.

WHAT WAS DONE—AND WHY

At CEO Pack's direction, USAGM has been working tirelessly to cure this complex and challenging situation through the creation of a process that will support USAGM's mission, protect the agency and its employees, and safeguard U.S. national security.

WHAT SHOULD BE DONE MOVING FORWARD

USAGM contends that use of the J-1 visa program is inappropriate given the mission and work of the agency. The agency is required to follow Presidential Executive Order 13788 on Buy American and Hire American. USAGM must follow the law by placing initiatives aimed at prioritizing employment for American citizens at the forefront of staffing practices. The United States is the most diverse nation on earth. Given the cultural knowledge possessed and the range of languages spoken by American citizens and legal permanent residents (LPR), hiring through the J-1 visa program should be the exception, not the rule—as it was previously. Like USAGM's security protocols, its J-1 visa program was deteriorating and threatening the agency's capacity to promote journalistic excellence and to fulfill its legal mandate of advancing U.S. foreign policy. In the latter instance as well as the former, USAGM is well on its way to correcting course.

USAGM must also offer greater consideration to the use of the I-1 visa program, which, as the U.S. Department of State [notes](#), is specifically for “representatives of the foreign media, including members of the press, radio, film, and print industries, traveling temporarily to the United States to work in their profession engaged in informational or educational media activities, essential to the foreign media function.” USAGM further recommends that more journalists be employed through the agency’s own visa program, which has not been fully utilized in recent years. The [H-2B visa program](#) should also be considered, for it might too prove appropriate in certain cases.

Finally, during the past several months, it has been reported that several Voice of America journalists on J-1 visas feared the prospect of returning to their home countries. USAGM affirms that foreign nationals who have experienced past persecution or have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion should apply for either refugee status under Section 207 of the Immigration and National Act (INA) if they are outside the United States, or asylum status under Section 208 of the INA, if they are already in the United States. If such a [credible fear](#) exists, then it should be expressed to appropriate officials at the moment entry is requested.



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JOURNALISTIC INDEPENDENCE

WHAT WAS FOUND

In its final hours of existence – and literally hours before Michael Pack became the first Senate-confirmed CEO of the U.S. Agency for Global Media (USAGM) – the Broadcasting Board of Governors (BBG) issued a so-called “firewall rule,” relying upon a significant misinterpretation of the [International Broadcasting Act](#) (IBA). Before long, it became clear to USAGM senior management that this midnight regulation impeded both the agency’s ability to fulfill its legal mandate and the CEO’s capacity to satisfy his legal requirements as the head of the agency.

The CEO position itself was caught in a predicament. On the one hand, even routine attempts to ensure that USAGM fulfilled its legal mandate and that the head of the agency satisfied legal requirements were reflexively met with inaccurate accusations that the “firewall rule” – which, again, had just been established – had been violated. On the other hand, there was fear that a laissez-faire approach to management of the agency – the one apparently envisioned by proponents of the firewall rule – would inevitably have led to accusations that the CEO were, conversely, absconding from duties whenever issues arose. Those issues might have involved, for instance, security, human relations, or journalistic principles.

In short, USAGM became convinced that a laissez-faire approach would have been contrary not only to the advancement of the agency’s mission and U.S. foreign policy, but also to the reason that Congress created the CEO position. Indeed, the CEO position, established in 2016, was founded precisely because members of both parties deemed the old BBG structure – comprised of a part-time, nine-member board – to be ineffective in performing its duties.

WHAT WAS DONE—AND WHY

In October 2020, CEO Pack [rescinded](#) the “firewall rule” midnight regulation, rectifying a situation that was both in tension with the Constitution and additional law and harmful to USAGM and the U.S. national interest. As a result, CEO Pack provided needed clarity that the USAGM CEO will be able to engage in managerial and general editorial oversight, which Congress specifically mandated that the CEO do in order to ensure that the agency carries out its proper governmental mission.

The notion of a “firewall” between senior management and the newsroom is foreign to virtually every major media organization in the world. Further, the notion of any “firewall” is largely foreign to the extraordinary history of the networks that now comprise USAGM. Voice of America, Radio Free Europe, and Radio Liberty have all been proudly serving the U.S. national interest and the cause of democracy for more than six decades—the majority of that time without a firewall. With respect to USAGM’s predecessors, the idea of establishing distance between agency senior management and the newsroom was only broadly introduced in 1994 with the enactment of the IBA. For nearly half a century prior, U.S. civilian international broadcasting exemplified journalistic independence and even markedly contributed to one of the West’s greatest modern achievements: triumph over tyranny, which took the form of Soviet Communism. During that entire period, there was little, if any, internal complaint about the networks being connected to the U.S. government and promoting the U.S. national interest.

WHAT SHOULD BE DONE MOVING FORWARD

USAGM, without proper authority, would be effectively unaccountable to Congress and the president. Undoubtedly, if a “firewall” existed between senior management and all other agency personnel, the former could not reasonably be held accountable for problems within the agency since it was not empowered to fix those problems. Senior management must have the ability to oversee and manage agency personnel. By statute, the CEO is responsible for making sure that individuals whose jobs are funded by the American taxpayer adhere to the highest standards of their profession.

While senior management cannot be prohibited from managing the thousands of other individuals who serve the agency, it should adamantly respect journalistic independence. It is not the role of the

CEO to interfere on a day-to-day basis with the operations of the newsroom or individual journalists, dictating to journalists what topics they should cover, let alone the way certain topics should be covered. To engage in such interventionist behavior would constitute poor management and result in subpar journalism. Still, senior management is obligated by statute to intervene in the newsroom and elsewhere – as it always has been – when violations of the [VOA Charter](#) and contraventions of U.S. foreign policy occur within the agency.

Especially at this time, when adversaries of liberty are rampantly disseminating misinformation and disinformation, America needs a robust, well-managed, well-structured organization overseeing U.S. civilian international broadcasting that is accountable to Congress and the American people. The decision to rescind the very recently-fashioned “firewall rule” will invariably move USAGM much closer to that goal.



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SECURITY ISSUES

WHAT WAS FOUND

Soon after Michael Pack became the first Senate-confirmed CEO of the U.S. Agency for Global Media (USAGM) in June 2020, the agency's new senior management learned that previous senior management had repeatedly failed to adhere to national security protocols and essential federal government personnel security practices for at least a decade. The actions – and, in many cases, inactions – of the individuals responsible for producing this crisis placed U.S. national security in danger and imperiled USAGM's ability to fulfill its legal mandate of advancing U.S. foreign policy.

Specifically, new USAGM senior management became aware that both the U.S. Office of Personnel Management (OPM) and the Office of the Director of National Intelligence (ODNI) had conducted multiple assessments of USAGM between 2010 and 2020. Those assessments, identified myriad deep-seated and persistent security problems that were either initially caused by or left largely unaddressed by previous senior management. Indeed, previous senior management and the now-defunct Broadcasting Board of Governors had not remediated these problems. In August 2020, at CEO Pack's direction, USAGM released [OPM's most recent assessment](#), which had been completed the previous month, in July 2020.

The aforementioned assessments revealed that, by the time CEO Pack started his tenure, at least 1,500 employees at USAGM – around 40 percent of the agency's entire workforce – had been improperly vetted, including dozens of individuals given security clearances at the confidential level or above and/or access to federal government systems and facilities despite having invalid background investigations, adjudicative actions, and government access cards.

Because of this record of egregious security violations and deficiencies, USAGM became one of only two federal agencies in the past 20 years to have its delegated suitability-determination authority revoked by OPM. Likewise, due to repeated failures stemming from an unacceptable level of systemic and institutional negligence, ODNI revoked USAGM's authority to adjudicate security clearances. Such severe remedies in such stark terms against an entire federal government agency is virtually unprecedented.

Moreover, USAGM had cleared the more than 1,500 employees even though the agency's delegated authority to conduct investigations lapsed back in 2012—due to what was already a list of numerous and egregious security violations and deficiencies. This delegated authority was never reinstated and USAGM management failed to take decisive action to resolve this issue during the entire ten-year period of assessments, despite the fact that the issue was repeatedly brought to its attention by career USAGM security professionals.

In the face of all this, USAGM under previous senior management continued to issue invalid access, security clearances, and suitability determinations. The agency was taking fingerprints, but neglecting to submit them to the appropriate authorities – or, in other instances, failing to take fingerprints, altogether. It was accepting aliases and fake social security numbers. It was not requiring the disclosure of foreign travel and foreign contacts. And on many occasions, USAGM was hiring individuals who left entire fields of background-check forms blank. Even the number of employees with secret and top-secret clearances was unknown.

The violations and deficiencies impacted every known element of personnel and information security. The damage done to U.S. national security cannot be easily calculated. The disregard for the many warnings ranks among the worst holistic federal government security failures in the modern era.

U.S. national security is jeopardized every time there is a single security violation. In this case, an entire agency – one that reaches more than 350 million people around the world on a weekly basis – allowed for lax and even non-existent security protocols for an entire decade. USAGM's longstanding failure to effectively vet its personnel, ranging from interns to contractors to grantees to full-time federal employees, made it vulnerable to those with nefarious intent toward the United States. The

thousands of individuals that USAGM improperly cleared over the past ten years possessed access not only to high-level federal government employees and sensitive information, but also to the powerful tools of U.S. civilian international broadcasting that shape America's global narrative.

WHAT WAS DONE—AND WHY

CEO Pack immediately directed USAGM to work closely with its federal partners to ensure that OPM's and ODNI's findings were swiftly and appropriately addressed. Because of the nature of the findings, he further requested meetings with the Chairmen and Ranking Members of USAGM's Congressional committees. He also ordered a comprehensive inquiry into USAGM operations because he was concerned that the failures identified by OPM and ODNI compromised the agency's ability to fulfill its mission, undermined the work of the federal workforce, and threatened U.S. national security. At CEO Pack's further direction, USAGM has initiated a system in consultation with agency partners that will cure the aforementioned security violations and deficiencies. Decisive action was required to protect the United States, the integrity of USAGM, and the safety of the agency's journalists at home and abroad.

WHAT SHOULD BE DONE MOVING FORWARD

USAGM must further implement the system set in place in consultation with agency partners to efficiently and effectively remediate these security failures. Continuing to move forward, USAGM must follow the law and guidance of OPM, ODNI, and other federal entities.



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SPENDING REVIEW

WHAT WAS FOUND

Michael Pack became the first Senate-confirmed CEO of the U.S. Agency for Global Media (USAGM) in June 2020. Immediately after beginning his three-year tenure, he issued a freeze on new spending requests to survey agency operations, which had long been the subject of criticism. The objective was to determine the validity of the agency's financial environment and take corrective action as needed to conform to statutory and regulatory requirements. Holds on outlays like the one carried out at USAGM are routinely undertaken by new leadership at both private-sector entities and nonprofit organizations for the very same reason: to ensure that resources are being used not only effectively and efficiently, but also legally. This was an essential action, not least because it is the American taxpayer who generously funds the agency's annual budget of around \$800 million.

New USAGM senior management quickly discovered that the criticism of agency operations was, unfortunately, well deserved. USAGM's human relations office and contracting processes, in particular, were in disarray. They were simply unable to provide fundamental information about the relatively-small federal agency, such as the total number of people employed by USAGM. While it was known that a significant percentage of USAGM personnel were employed as Personal Services Contractors (PSC), the agency was unable to actually provide the work agreements, making it virtually impossible to determine, for instance, the number, location, and duties of contractors—many of whom are foreign nationals. Further, chains of command were broken and jumbled throughout USAGM, leaving PSCs and Full-time Equivalent (FTE) employees alike unsure of their own reporting structures.

Reviews conducted by both the U.S. Government Accountability Office (GAO) and the Office of Inspector General (OIG), and additional investigations of agency operations, revealed a striking amount of questionable activity. Frequent “emergencies” were used to justify the ramming through of some contracts without normal, regulatory-required reviews and timelines. Other contracts were being forced through to cover disparate items, including some that were partisan and involved the hiring of friends and companies owned by personal acquaintances.

When reviewing the financial environment, the agency’s senior management uncovered issues that further necessitated a freeze on new hiring. First, it learned that previous agency senior management had been repeatedly violating national security protocols and essential federal government personnel security practices for at least a decade. The myriad problems impacting the agency were identified in multiple agency assessments conducted by the U.S. Office of Personnel Management (OPM) and the Office of the Director of National Intelligence from 2010 to 2020. (USAGM released [OPM’s most recent assessment](#) in August 2020.) Second, there were major concerns that USAGM had long been improperly utilizing the U.S. Department of State’s [J-1 visa program](#).

Importantly, the spending and hiring freeze was never actually a full freeze, but instead a review period until new USAGM senior management was in control of the agency’s financial environment. It involved a case-by-case review process on all contract renewals or new bids and personnel actions, with the exception of retirements, terminations, and/or resignations.

The directive applied to obligations/commitments to new contracts and option year and/or other contract extensions, and not to obligated funds. Also, it did not apply to existing obligated/committed funds required for standard operating expenditures for physical spaces, equipment, maintenance, vehicle operation, supplies, and other necessary mission and life support functions—including the use of imprest funds and credit card accounts obligated to pay for such expenses, locally.

For current contracts that were using funds obligated in either base or option years, they were, unless otherwise directed, to continue operating under their base or current option-year obligations. Further, all personnel actions relating to hiring or promotion did include reassignments, details, and temporary promotions. It did not include pending disciplinary actions.

WHAT WAS DONE—AND WHY

At CEO Pack's direction, the agency reviewed and assessed its contracting and grant-making processes. As a result, new USAGM senior management recognized the need to revise the review-and-approval process. Further at CEO Pack's direction, USAGM instituted procedures to improve the integrity of contracting decisions by bolstering conflict-of-interest and regulatory-acquisition requirements.

In terms of grants, new USAGM senior management reviewed agreements that were currently in place and requiring renewal in Fiscal Year 2021. In keeping with statutory, regulatory, and policy requirements of the U.S. Office of Management and Budget (OMB) and the U.S. Department of Justice's Office of Legal Counsel, USAGM's Office of the CEO revised the terms and conditions of agency grants to conform to the findings of OIG and GAO reports for U.S. national security, performance management, reporting, and stewardship of U.S. taxpayer money.

WHAT SHOULD BE DONE MOVING FORWARD

Continuing to move forward, USAGM will enforce the revised contracting- and grant-making processes, and it will comply with all statutory, regulatory, and policy requirements of OMB and other federal entities.

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Andrew Jansen Summary

Name: Andrew Jansen, Director, Office of Security

Summary of Basis for Investigative Leave:

Jansen was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- His background investigation being performed when USAGM lacked proper authority (security clearance granted 6/11/2013).
- Failure to remedy personnel and security concerns escalated to his attention and within the scope of his role.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Jansen's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Jansen. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Jansen's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Jansen. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Jansen is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

Personnel Security – 5 CFR 1400 Implementation

When 5 CFR 1400 was passed in July 2015, Jansen was an investigative team lead within the Investigations Branch of the Office of Security (“SEC”), and in January 2016, he became Chief of the Investigations Branch. Jansen was involved in explaining 5 CFR 1400’s requirements and making recommendations to senior officials regarding compliance with those requirements. The documents indicate that Jansen raised the agency’s obligations under 1400 to his supervisor, Frederick Lang, the Director of the Office of Security, and to Lang’s supervisor, Marie Lennon. Jansen recommended that the agency comply with the regulation requirements within its two-year window.

Jansen claims to have notified Lennon of 5 CFR 1400’s requirements as early as May 2015, but we have not located any written record of that discussion based on the review of documents.¹ In November 2016, Jansen was a member of the Agency Security Working Group (David Kligerman, Lang, Jansen, Piero Ciancio, Lennon and Nicholas Fechter), which met to discuss, among other items, how to handle personnel security for grantees.² Security was to create a plan for how to use the Agency designations as a model for the grantee investigations. According to the notes of the meeting, they discussed the determination made in the past by leadership that all Federal positions within the Agency would be classified under a blanket category of “non-critical sensitive.” As a result of the new security regulations for using the Position Designation System (“PDS”), that blanket designation had come into question.

The following month, on December 19, 2016, Jansen sent Lennon a memo, copying Lang, which detailed the requirements of 5 CFR 1400.³ He referenced a 2015 OPM/ODNI audit, where one of the noted deficiencies was the Agency’s failure to properly classify the position sensitivity of each position within the Agency. There was a warning in the report that failure to correct the deficiencies may result in the revocation of delegated investigative authority. Jansen noted that the Agency had taken the position that it had received authorization from OPM to classify all positions as sensitive, but that there was no evidence of such an agreement. Jansen stated that the Agency could no longer “self-proclaim” a minimum position sensitivity for all positions and that all positions must be assessed using the PDT within 2 years. He indicated that management and OHR were notified in 2015 and again in early 2016, and that OGC had no objection. The next step was for the Office of the CEO to be notified and to authorize OHR to initiate the assessment process. However, if the Agency could not meet the deadline, it must request an extension. From review of the documents, Kligerman edited the memo in April 2017, to change the recommendation to obtain new authorization from OPM to classify all positions within the Agency not determined to be critical-sensitive, as non-critical sensitive.⁴

The documents indicate that in April 2018, Jansen drafted a memo to CEO John Lansing formally recommending that approach on behalf of the Office of Security and GC’s office.⁵ However, other emails indicate Jansen wanted to fully comply with the 5 CFR 1400 position designation requirements.^{6,7}

¹ Jansen prepared a written document titled “Official Response” in response to his leave of absence.

² H56114-0096-0080709

³ H56114-0070-002511

⁴ H56114-0077-071124

⁵ H56114-0069-014122

⁶ For example, in a March 2018 email between Nicholas Fechter and Lennon regarding the proper method for requesting an extension from ODNI, Fechter wrote, “I can reach out to Drew, but Drew isn’t inclined to play ball on this strategy, he clearly wants to fully comply with 1400.”

⁷ H56114-0069-034428

Background Investigations and Adjudications

As Jansen was the Chief of the Investigations Branch beginning January 2016 and the Director of the SEC beginning April 2018, he would have had a large degree of responsibility for identifying and addressing any shortcomings with respect to the investigation process. Based on the documents reviewed, as far back as 2011, members of the Office of Security, including Jansen, reported staffing needs to Lennon and noted that the deficiencies were having a direct impact on staff's ability to perform their duties.

In 2011, Peter Lagerberg, Chief of Personnel Security, prepared a "Security Profile and Review," at the request of the Director of Security, Michael Lawrence.⁸ The Profile was created in anticipation of a meeting with Lennon where Lawrence planned to request additional security staff. Lawrence stated that if Lennon did not provide any additional staff, he wanted to have "the formal request on record."⁹ Lagerberg listed a number of issues for both Physical and Personnel Security divisions. In particular, he noted that the Personnel Security was overburdened by "the sheer volume of its workload given current staffing capacity" and noted a number of specific issues, including:

- The manager of the classified file room had only one full-time contractor and that position was typically associated with high turnover (which slowed down productivity);
- Budget limitations constrained the SEC's ability to hire additional contract investigators that Lagerberg described as "integral" to the timeliness of the investigation process;
- The SEC only had two full time adjudicators (and that adjudicators could only be FTEs as opposed to contractors); and
- The SEC had a single administrative officer from the Office of Analysis and Administration that also handled worked for several other IBB offices. This forced several members of an already overworked SEC staff to handle administrative duties, "often to the detriment of their primary job functions."

Subsequent emails in the following years indicate Jansen's requests for additional security staff and Lennon's apparent refusal to take action. In an August 2017 email with Director of Security Lang, Jansen voiced frustration after apparently discussing staffing needs with Lennon.¹⁰ "I wasn't joking with Marie about the backlog and bottleneck of cases requiring investigation. . . I can only scream help in one language, apparently a language not understood by senior management." Lang responded, "I know you have been upfront with Lennon on the manpower—not sure how to emphasize this other than to ask her if we can go direct with Lansing."

In a March 2018 email with Lang, Jansen discussed his meeting with Lennon: "I told her that our backlog was extensive and that it would continue to develop, as the inbound cases will not slow . . . My report along with the knowledge of the impending evaluation, pushed her to ask how many people I needed." Lang responded, "I hope she remembers her previous inaction and ignorance when the evaluation team provides their comments on SEC being extremely undermanned."¹¹

In October 2018, after the 2018 OPM report was issued, Nicholas Fechter circulated an action plan.¹² In discussing that action plan, Jansen told Lennon that providing proper staffing for Security is the

⁸ H56114-0077-091438

⁹ H56114-0077-091439

¹⁰ H56114-0077-069626

¹¹ H56114-0077-046066

¹² H56114-0077-009026; H56114-0077-009027

only way to make the process work. Luer separately responded to Lennon, saying that no additional staff will be hired until delegated authority is returned. Lennon then asked Jansen whether he thought anyone in the front office would approve hiring investigators based on this report. Jansen responded:

Hiring is part of the cure. If they don't understand how that fits into this issue, I will explain it tomorrow. I believe Matt will be at the meeting to share SEC's explanation and needs with the CEO. As I stated earlier, if personnel are not forthcoming the agency needs to send operational responsibility for investigative efforts to OPM. That said, no one wants that to happen and therefore I believe that they'll take the request seriously. Moreover, this SNAP report is a wake up call that tells the agency OPM/ODNI is no longer accepting noncompliance while at the same time declaring their expectation that our program will be taken seriously by USAGM, which includes proper staffing. Bottom line, we can't be timely without a staff.

Delegated Investigative Authority

When the SEC's investigative authority expired in 2012, Jansen was an investigator within the Investigations Branch. The several OPM reports explained that the Director of Security failed to return the signed MOU in 2013, which led to the expiration of the delegation. According to Jansen, it was Lagerberg's (Chief of the Personnel Security Division) responsibility to return the signed MOU. The 2014 Draft SNAP report was the first official notification of the issue. By the time Jansen became Chief of the Investigations Branch in 2016, Lennon and others would have already been aware of the expiration of the delegation. Nevertheless, it appears that at least by the time Jansen became the Director of the SEC in April 2018, he attempted to take action to seek new delegation from OPM but was met with inaction by Marie Lennon and David Kligerman.¹³

Jansen claims he was unaware of the expiration until June or July 2017, when he noticed the expiration while reviewing MOU files. He claims to have contacted Lindsay Gengler, the OPM liaison who confirmed that the delegation was expired, and then later Lisa Loss in the Suitability Executive Agent Program Agent Program Office.¹⁴ After several unsuccessful attempts to contact Loss, he spoke to Christine Bilunka in the SuiteEA Office, who told Jansen that Loss would return Jansen's calls "when she was less busy."

According to Jansen, in May 2018 he attended a Background Investigator's Sub-Group meeting for the sole purpose of speaking with Loss, who was a scheduled speaker at the meeting. Jansen spoke with Loss and she acknowledged his phone calls, acknowledged the Agency was out of conformity with OPM policy, and stated that there were major obstacles the Agency needed to surpass in order to obtain new delegated authority. Loss also recommended that the Agency transition its investigations to another service provider, re-request delegated authority from both OPM and ODNI, and establish an investigative body that could handle the case flow. Jansen claims to have notified Lennon of his conversation with Loss and her suggestions. According to Jansen, Lennon asked whether the suggestions to cease investigations amounted to an actionable order. When Jansen was unable to answer the question, Lennon instructed him to keep the conversation private and that she would seek legal guidance from the GC.

In May 2018, Jansen drafted a letter to the Director of OPM on behalf of Deputy Director Jeffrey Trimble requesting re-delegation of authority. Lennon sent the draft letter to Kligerman for review, where the letters went untouched for several months. Jansen followed up regarding the status of the letter with

¹³ H56114-0069-014122

¹⁴ H56114-0077-069835

both Lennon and directly with Kligerman several times. In an email to Lennon in June 2018, Jansen stressed the importance of obtaining a new delegation:

OGC must push our letter for delegated authority. I know that some believe that this is a non-issue; however, not having that authority may limit my ability to deal with OPM directly. Additionally, it would be very helpful if the process to reattain our delegated authority was in process before we receive the initial SNAP inspection results which will note the issue and demand an immediate remedy. Let me know if you'd like me to speak with David directly or if you wish to deal with the issue.

Documents indicate that Jansen followed up with Kligerman in August 2018 and then again in September. In a September email to Kligerman, Jansen stated, "Without reestablishing our delegated authority with both agencies, the USAGM risks the permanent revocation of our investigative privilege. Moreover, the absence of authority brings into question our ability to process cases, initiate removal actions, and communicative findings to oversight agencies." The following week, Kligerman responded that he would ask Lillian Cheng, a new Deputy GC, to review the letter. Cheng sent her revision to the draft letters. Shortly thereafter, OPM issued its 2018 report, which instructed the Agency to stop its background investigations and transfer the work to the National Background Investigations Bureau. OPM stated that it was unwilling to sign a new delegation until the Agency addressed all the issues identified in the report, many of which were related to the 5 CFR 1400 requirements.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Jansen's:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Timeline entries associated with Jansen have been flagged as potentially relevant to reliability, discretion and judgement.¹⁵ However, in consideration of those documents they reflect primarily on others associated with those entries and their action or inaction, and less on Jansen's action or inaction. The Timeline provided at Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

¹⁵ One timeline entry is flagged for use of information technology, based on Jansen's use of his personal e-mail account for USAGM-related business. However, Jansen copied his USAGM e-mail on that communication, which was originating from his personal e-mail (as opposed to him sending something to his personal e-mail account), in a fashion that may have been compliant with an exception to USAGM's E-mail Records Management Policy.

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0001	H56114-0077-091437	6/7/2011	Lagerberg emails Jansen and other Security employees, attaching a report from a review of the IBB security program, and asking for their input on what resources are needed to improve the security program.	Awareness of and Responses to Security Program Lapses						
AJ0002	H56114-0077-091438	6/7/2011	Report regarding a review of the IBB security program says that background investigations are slow, security office is understaffed, and the agency is unprepared for a transition to e-QIP. “If Security does not see improvement in its timeliness, BBG runs the risk of losing delegated authority to conduct its own investigations.”	Awareness of and Responses to Security Program Lapses						
AJ0003	H56114-0077-091439	6/7/2011	Security director Lawrence emails other security personnel regarding the report from a review of the IBB security program, “I would think that we need to begin mapping out what we need in a formal request, I am sure [Lennon] will not come back and give us bodies/funding and will want some logical input from us as to where we will need the resources and at what magnitude.” Lagerberg attaches the email to his 6/7/2011 email to Jansen.	Awareness of and Responses to Security Program Lapses						
AJ0004	H56114-0077-064769	10/9/2014	OPM inspector Miltner emails Jansen and Hodge asking for “documentation from the Director of BBG indicating that all positions are designated at least Non-Critical Sensitive.” On 10/10/2014, Jansen replies to Miltner (from his personal email account), attaching the 10/21/2005 Policy and Procedures for a Common Identification Standard for the Broadcasting Board of Governors.	Awareness of and Responses to Security Program Lapses						X

¹⁶ No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

¹⁷ Trustworthiness

¹⁸ Reliability

¹⁹ Discretion

²⁰ Honesty

²¹ Judgment

²² Use of Information Technology

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NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0005	H56114-0077-064835	10/10/2014	Jansen asking for doc stating all positions are “sensitive” in order to send to OPM	Awareness of and Responses to Security Program Lapses						
AJ0006	H56114-0077-064836	10/10/2014	Memo from Oct. 2005 attached to email from 2014. “BBG Policy and Procedures for a Common Identification Standard” -discusses PIV and credentials; use SF-86	Awareness of and Responses to Security Program Lapses						
AJ0007	H56114-0077-074396	8/27/2015	Jansen response to OPM recommendations p. 1- says SEC use of questioning exceeds current standards but will now conform to OPM/ODNI standards; and will comply with MOU from Dec. 2010 p. 2- reorganized Investigative Branch and implementing new policies	Awareness of and Responses to Security Program Lapses						
AJ0008	H56114-0077-062580	11/6/2015	Email from Welch to Lennon regarding edits/responses to ODNI/OPM report; and how they will not have time to determine their final position on whether all BBG positions are properly categorized as least sensitive. Lagerberg forwards the email to Jansen and Hodge.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0009	H56114-0077-062581	11/6/2015	Draft email response to OPM and ODNI addressing recommendations. In this draft response, BBG agrees with and will implement the recommendation to ensure all covered positions are correctly designated using the PDT within 24 months.	Awareness of and Responses to Security Program Lapses						
AJ0010	H56114-0077-062582	11/6/2015	Draft response and comments to the draft 2015 ODNI/OPM report. Includes discussion on determining whether at a minimum all positions can be designated as noncritical sensitive, and develop statement to document this underlying rationale. If such a rationale cannot be developed, see if a case can be made for an exemption to apply the PDT.	Awareness of and Responses to Security Program Lapses		X	X		X	

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					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0011	H56114-0058-012978	3/7/2016	Jansen email to OPM discussing grantees and background investigations, as well as delegated authority. Jansen to Kligerman asking for advice related to OPM FIS changing investigation requirements related to grantees. Also notes SAC imbalance is threatening their delegated authority. Lennon to Kligerman specifically referencing MBN concern over grantee background investigations. Earlier emails in chain are	Awareness of and Responses to Security Program Lapses						
AJ0012	H56114-0058-014478	3/7/2016	OPM email to Jansen discussing personnel security and HSPD-12 for grantee organizations; asks whether they need to perform background investigations. Jansen emails Kligerman further discussing grantee investigations and questions existence of delegated authority (“not in compliance with MOU between OPM and BBG”). Lennon to Kligerman notes MBN unhappy over SEC background checks; and FIS would require changes related to grantees. MBN is slow to enact SEC current process.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0013	H56114-0077-060073	3/31/2016	Kligerman email about BBG personnel security program: grantees not falling under HSPD-12; discussion of what falls under MOU and delegated authority; and just overall what background checks/investigations they can do on grantees.	Awareness of and Responses to Security Program Lapses						
AJ0014	H56114-0077-060518	4/4/2016	OPM employee Paul responds to a question from Kligerman about background investigations for grantee positions, “I believe it would be in the best interest of your agency to align your whole investigative program consistently rather than segregating your populations into pieces with their special requirements. It seems like you would have a stronger, more efficient and effective program.” Kligerman schedules a meeting with Lang and Jansen to discuss OPM’s comments and next steps for BBG.	Awareness of and Responses to Security Program Lapses						

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NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0015	H56114-0077-073632	4/5/2016	Jansen emails Kligerman regarding a discussion between Kligerman and OPM about background investigations for grantee positions, “here are a few reasons this situation must be reevaluated: 1) The PAC indicated that we have no authority 2) OPM cannot identify an investigative policy giving us the authority to conduct investigations related to grantee personnel 3) The investigative material concerning a grantee investigation is not releasable to the grantee 4) The BBG/IBB adjudicative decisions concerning Grantee investigations are not binding and can be ignored without further explanation by the Grantee 5) The grantees are private entities having no logical and physical access to government facilities/information systems, which places their personnel outside the purview of our investigative authorities --5 CFR 731 (suitability and fitness), EO 10450 (sensitive positions), and EO 12968 (access positions) 6) The grantees currently utilize adjudicative findings based on federal guidelines to determine hiring and retention of a civilian workforce Just so I can end this, how about we meet sometime this week and discuss the matter.”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0016	H56114-0077-060391	4/13/2016	Jansen to Lagerberg relays issues arising from OPM: agency is slow to change; tier 3 investigation policy slows productivity; “must be able to move forward with cases not meeting the sensitivity levels required by tier 3”. Lagerberg notes article that states OPM and ODNI new standards are not helping things get done.	Awareness of and Responses to Security Program Lapses						
AJ0017	H56114-0077-059852	5/2/2016	Jansen scans to his email the draft September 2015 report from OPM/ODNI, which states that “During the course of our review, we determined BBG is operating without the proper delegated authority. The 2010 MOU for Delegated Investigative Authority was valid for two years, and expired in December, 2012.” The report makes 25 recommendations, requiring changes to BBG’s personnel security procedures.	Awareness of and Responses to Security Program Lapses						

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					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0018	H56114-0058-012738	6/2/2016	Jansen emails Lennon about the timelines and requirements for BBG to perform investigative functions and informs her that BBG is allowed to “close investigations without all the leads”.	Awareness of and Responses to Security Program Lapses						
AJ0019	H56114-0077-071144	10/21/2016	Jansen emails Langevin at OIG regarding the relationship between SEC and the grantees, but notes that his response is “not sanctioned by my agency”.	Awareness of and Responses to Security Program Lapses						
AJ0020	H56114-0070-007848	11/16/2016	Fechter emails minutes of November 16th “Updates on Security Projects” meeting to Jansen, Kligerman, and Lennon.	Awareness of and Responses to Security Program Lapses						
AJ0021	H56114-0070-007849	11/16/2016	Kligerman, Jansen, Lennon and others meet to discuss updates on security projects including physical security and position sensitivity level for agency personnel. Minutes note that past Agency leaders determined “that all Federal positions within the Agency would be classified under a blanket category of “non-critical sensitive.” That blanket designation has come into question in the past couple of years...”	Awareness of and Responses to Security Program Lapses						
AJ0022	H56114-0096-0080709	11/16/2016	Security Working Group memo indicates that past Agency leadership determined “that all Federal positions within the Agency would be classified under a blanket category of ‘non-critical sensitive,’” and shows knowledge of Kligerman, Jansen, and Lennon that BBG has less than one year to review and re-classify everyone’s position sensitivity across the entire Agency.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0023	H56114-0070-002510	12/20/2016	Jansen emails Lennon a memo regarding position reassessment required by 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						

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					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0024	H56114-0070-002511	12/20/2016	Jansen writes a memo to Lennon regarding the reassessment of agency positions and corresponding investigative requirements obligated by 5 CFR 1400. Jansen tell Lennon that “A perceived flexibility no longer exists that allows the BBG to self-proclaim a minimum position sensitivity for all positions located therein.”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0025	H56114-0070-028291	1/17/2017	Fechter emails Lennon about “grilling” Jansen on Jansen’s report, which was written on December 19, 2016 and concerned implementation of 5 C.F.R. 1400 requirements. Fechter maintains that, “There are clearly persisting questions regarding which Agency positions could potentially pose a material adverse impact on the conduct of US foreign relations.”	Awareness of and Responses to Security Program Lapses						
AJ0026	H56114-0077-071231	1/18/2017	Wright emails Jansen about potential physical security issues, and an example of a lapse, with classified material. Wright mentions the need to educate agents and admin staff about security prior to the addition of the SCIF.	Awareness of and Responses to Security Program Lapses						
AJ0027	H56114-0077-071124	1/24/2017	Fechter emails Jansen the edited version of the 5 CFR 1400 compliance plan that Jansen had originally sent to Lennon in December 2016.	Awareness of and Responses to Security Program Lapses						
AJ0028	H56114-0077-071125	1/24/2017	Lennon and Fechter edit the memo originally sent by Jansen to Lennon regarding the reassessment of agency positions required by 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
AJ0029	H56114-0070-027123	1/25/2017	Jansen emails Fechter disputing the need to edit Jansen’s original report on 5 CFR 1400 compliance, which he sent to Lennon in December 2016.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0030	H56114-0070-027124	1/25/2017	Jansen forwards this October 2016 memo to Fechter, explaining SEC’s thinking related to physical security and investigative requirements of Grantee personnel.	Awareness of and Responses to Security Program Lapses						

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					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0031	H56114-0077-070673	3/30/2017	Fechter emails Jansen and Lennon about the outstanding issues from OPM’s 2015 audit of BBG, including findings pertaining to “Designation of Position Risk and Sensitivity”. Fechter seeks an extension for responding to OPM on these issues. Jansen then emails Lang, wondering why Fechter reached out to OPM regarding the 2015 audit.	Awareness of and Responses to Security Program Lapses						
AJ0032	H56114-0077-070676	3/30/2017	OPM’s 2015 audit lists issues with BBG’s designation of position risk and sensitivity, investigative processing, and other security problems. Fechter emails Jansen and Lennon, attaching this audit.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0033	H56114-0077-070599	4/6/2017	Fechter, Lennon, and Jansen email OPM and DNI and request an extension on fully implementing 5 CFR 1400.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0034	H56114-0077-069577	8/1/2017	Miltner emails Lennon OPM’s final report on BBG’s suitability and security program.	Awareness of and Responses to Security Program Lapses						
AJ0035	H56114-0077-069578	8/1/2017	OPM’s final report on BBG’s suitability and security program sent to Lennon. Report calls out designation of position risk, investigation processing, and other security program issues at BBG.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0036	H56114-0068-029670	8/2/2017	Jansen sends Kligerman OPM’s final report on BBG’s suitability and security. Report calls out designation of position risk, investigation processing, and other security program issues at BBG.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0037	H56114-0077-051524	8/3/2017	Jansen emails Lennon and others regarding a request for funding to comply with security program requirements.	Awareness of and Responses to Security Program Lapses						

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					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0038	H56114-0077-051525	8/3/2017	Request for funding to comply with security program requirements sent by Jansen to Lennon.	Awareness of and Responses to Security Program Lapses						
AJ0039	H56114-0077-051526	8/3/2017	Request for funding to comply with security program requirements sent by Jansen to Lennon.	Awareness of and Responses to Security Program Lapses						
AJ0040	H56114-0077-069626	8/11/2017	Jansen emails Lang regarding lack of security staff to conduct background investigations. Jansen relates that he has informed Lennon about the problem and “I can only scream help in one language, apparently a language not understood by senior management.” Lang responds, “I know you have been upfront with Lennon on the manpower-- not sure how to emphasize this other than to ask her if we can go direct with Lansing.”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0041	H56114-0010-008579	10/4/2017	Lennon, Kligerman, Jansen and Fechter meet to discuss 5 CFR 1400 compliance and whether to seek a waiver.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0042	H56114-0068-018822	10/12/2017	Fechter emails Lennon a draft document titled “Personnel Security Risks Facing the BBG”, which he says is based on a conversation with Jansen.	Awareness of and Responses to Security Program Lapses						
AJ0043	H56114-0068-018823	10/12/2017	Draft document titled “Personnel Security Risks Facing the BBG” includes the risk that failure to address OPM/ODNI recommendations could lead to the loss of BBG’s delegated authority to conduct personnel security operations.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0044	H56114-0068-009347	11/1/2017	Fechter emails Kligerman (with a copy to Lennon and Jansen) documents requested by Kligerman as background 5 CFR 1400 compliance, including a draft document titled “Personnel Security Risks Facing the BBG”.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0045	H56114-0068-009348	11/1/2017	Draft document titled “Personnel Security Risks Facing the BBG” includes discussion of foreign intelligence agencies targeting BBG. Fechter has deleted the section discussing the risk of BBG losing its delegated authority to conduct personnel security operations (but it is still visible in the markup view of the draft document).	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0046	H56114-0069-039901	1/31/2018	OPM inspector Wold emails Jansen informing him that a review of the BBG security and suitability program is tentatively scheduled for April 2018. On 2/1/2018, Jansen forwards Wold’s email to Lennon. On 2/2/2018, Fechter attaches it to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses						
AJ0047	H56114-0069-039902	2/1/2018	Andross emails Turner, Jansen and others about open OIG recommendations from an inspection of MBN. Three of the open recommendations require action by OCFO regarding de-obligation of funds, closure of expired grants, and inventory reconciliation. The fourth open recommendation, regarding the establishment of a protocol for grantee background investigations, requires action by OMS and OGC. On 2/2/2018, Fechter attaches Andross’s email to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses; Performance Issues						
AJ0048	H56114-0069-038848	2/9/2018	Draft memo to Lansing through Trimble and Lennon from Jansen regarding a reassessment of agency positions for national security sensitivity levels that states that “GC, OMS/HR, and OMS/SEC believe the best course of action is to request a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive, broadening the number and type of positions from those mentioned in the correspondence dated 1991, specifically “International Radio Broadcasters, writers, editors and related positions.” “	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0049	H56114-0069-034428	3/8/2018	Fechter forwards to Lennon correspondence with ODNI and OPM regarding BBG’s request for an extension of to comply with 5 CFR 1400. “I didn’t put David K on this email, but the ODNI folks are looking for a real response on 1400. I’m bringing this to your attention because I’m not sure if these are the guys we need to petition for a waiver, or if we should tell them we’re going to petition for a waiver with their colleagues. I can reach out to Drew, but Drew isn’t inclined to play ball on this strategy, he clearly wants to fully comply with 1400.” Lennon responds “I don’t know how we can avoid having DK involved. How about drafting something that tells them we are in the process of requesting a waiver?” Fechter responds that he will do so, but “I’m just wondering if we know who to petition. I will check with David, but I’m sure he won’t know.”	Awareness of and Responses to Security Program Lapses			X		X	
AJ0050	H56114-0069-034564	3/8/2018	Fechter emails Lennon that he has discussed with Jansen the problem of finding the right point of contact to request a waiver of 5 CFR 1400 compliance from OPM and ODNI. He attaches a draft memorandum with the subject line “Extension for full compliance of 5 CFR 1400”.	Awareness of and Responses to Security Program Lapses						
AJ0051	H56114-0077-046066	3/9/2018	Jansen emails former security director Lang about a meeting with Lennon in which he “Told her that our backlog was extensive and that it would continue to develop, as the inbound cases will not slow. Told her that our process was no longer serious and needed to be fully revised. My report along with the knowledge of the impending evaluation, pushed her to ask how many people I needed. I was so surprised that I didn’t have a clue what to tell her.” Lang responds that “even a scathing report from the ODNI wouldn’t mean anything” to BBG management. Jansen agrees that Lennon does not care.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0052	H56114-0077-046032	3/16/2018	Meeting scheduled among Kligerman, Jansen, Fechter and Rosenholtz to discuss draft 5 CFR 1400 waiver and extension request.	Awareness of and Responses to Security Program Lapses						
AJ0053	H56114-0069-031546	3/19/2018	Weekly report from Fechter to Lennon relates a (1) meeting with Jansen to discuss the justification for additional security resources and (2) Kligerman has the draft 5 CFR 1400 waiver request for review, although the 3/16/2018 meeting to discuss them was missed.	Awareness of and Responses to Security Program Lapses						
AJ0054	H56114-0034-009539	3/20/2018	Jansen emails Lennon a draft Personnel Security Program Directive for her review.	Awareness of and Responses to Security Program Lapses						
AJ0055	H56114-0034-009540	3/20/2018	Draft Personnel Security Program Directive states that BBG has delegated authority from OPM and ODNI to administer its own personnel security program.	Awareness of and Responses to Security Program Lapses						
AJ0056	H56114-0077-067963	3/20/2018	Jansen emails Lennon a draft personnel security program directive.	Awareness of and Responses to Security Program Lapses						
AJ0057	H56114-0077-067964	3/20/2018	Draft personnel security program directive outlines procedures for background investigations. It claims that BBG has delegated authority from OPM and ODNI to grant security clearances.	Awareness of and Responses to Security Program Lapses						
AJ0058	H56114-0077-045500	3/28/2018	Fechter emails Jansen a draft memorandum regarding resources for investigative needs.	Awareness of and Responses to Security Program Lapses						
AJ0059	H56114-0077-045501	3/28/2018	Draft memorandum from Jansen to Lennon regarding resources for investigative needs requests 3 additional people in the security office to support background investigations.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0060	H56114-0069-029741	4/4/2018	Fechter forwards a string of emails to Kligerman which begin on March 14, 2018 that seek advice from Kligerman concerning the attached draft memorandum and draft letter requesting extension for compliance and waiver of 5 CFR 1400 requirements copying Lennon and Jansen.	Awareness of and Responses to Security Program Lapses; Performance Issues						
AJ0061	H56114-0069-029742	4/4/2018	Draft letter from Lansing to Director of National Security requesting a waiver of 5 CFR 1400 requirements attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
AJ0062	H56114-0069-029743	4/4/2018	Draft memorandum from Lennon to OPM/ODNI requesting an extension for completing full compliance of 5 CFR 1400 attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
AJ0063	H56114-0077-067711	4/11/2018	Fechter sends Jansen, with Lennon copied, two documents IBB planned to send to ODNI that Lennon and Fechter wanted Jansen to review and edit. Kligerman’s recommendation was to ask for a continuation of the status quo. Jansen provides his edits to Fechter’s documents to ODNI.	Awareness of and Responses to Security Program Lapses						
AJ0064	H56114-0077-067868	4/11/2018	Fechter sends a proposed 1400 waiver memo to Jansen with Lennon copied, to be sent for Lansing’s approval. Fechter asks Jansen to “provide some data pertaining to the number of critical sensitive positions and special-sensitive positions currently encumbered at the BBG” and asks whether he has “any issue with David’s proposal to apply the PDT to the positions currently classified as critical sensitive and special sensitive.” Jansen replies, asking why the request wasn’t being penned by GC, noting that the points in the letter must be clearly explained and citations spot-on, so he would have it reviewed by GC. Jansen forwards the memo to Hodge and asks him to read the letter and fill in the numbers needed and to then forward to Fechter and Lennon.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0065	H56114-0069-011079	4/12/2018	Lennon tells Jansen that the memos need to move the next day, and Jansen states that he finalized his corrections to the first letter and that he has asked Hodge to obtain the required numbers. Hodge states that the critical sensitive and special sensitive numbers have been added.	Awareness of and Responses to Security Program Lapses						
AJ0066	H56114-0069-040192	4/12/2018	Kligerman asks who made the changes to the memos and that he wrote it a certain way to preserve the legal position. Jansen tells Fechter “this was the reason I thought it best for him to write the letter in the first place. Send it however he wishes it sent and have a great weekend.” Fechter replied “I hear ya, but if we had waited for him to write the letter himself, we wouldn’t be off the starting blocks. I’m afraid this is just how it goes when GC gets involved.”	Awareness of and Responses to Security Program Lapses; Performance Issues		X				
AJ0067	H56114-0069-014419	4/23/2018	Lennon states that she saw Kligerman in the hallway who wants them to get the 1400 memo to Lansing. She states “let’s discuss in the morning.”	Awareness of and Responses to Security Program Lapses						
AJ0068	H56114-0077-044912	4/23/2018	Fechter asks Jansen if he has been able to review the final version of the memo. Jansen asks whether they are meeting that morning, and Fechter said yes, about staffing, and asks whether Jansen wants to include the memo in the meeting.	Awareness of and Responses to Security Program Lapses						
AJ0069	H56114-0077-067620	4/23/2018	Jansen says he is “good with the memo.”	Awareness of and Responses to Security Program Lapses						
AJ0070	H56114-0069-014122	4/25/2018	Jansen, through Trimble, sends Lansing a memo on Reassessment of Agency Positions for National Security Sensitivity Levels.	Awareness of and Responses to Security Program Lapses						
AJ0071	H56114-0069-014109	5/8/2018	Fechter emails OPM and ODNI attaching a letter from Lansing regarding 5 CFR 1400 compliance. Lennon forwards the email and attachment to Jansen.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0072	H56114-0069-014110	5/8/2018	Letter from Lansing to ODNI and OPM regarding 5 CFR 1400. Where the 3/8/2018 draft of the letter had requested exemption from use of the Position Designation Tool, the final letter says that “the Agency has determined that changes in current Agency position designations are not warranted at this time. Accordingly, pursuant to that review, the Agency will continue to consider every covered position at BBG a ‘National security position,’ given the ability of the occupant of each position to potentially bring about a material adverse effect upon the national security.”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0073	H56114-0077-008991	5/31/2018	NBIB Dagenias send to Jansen draft MOU; Jansen ratifies; Lennon asks if this will help with OPM; and Jansen responds that it allows them to use e-QIP, that it is an update but has nothing to do with SNAP.	Awareness of and Responses to Security Program Lapses						
AJ0074	H56114-0077-066838	6/20/2018	On June 8, 2018, Jansen sends Kligerman an email regarding a request for information concerning RFE investigations and the Grantee Agreement. He also states “Concerning the resolution of the IG recommendation, I believe that this will be best resolved following OPM’s decision concerning our 1400 exemption request, which is pending. That said, we could withdraw the exemption request and initiate an immediate reevaluation of position sensitivity, agency wide, and then assess the status of the Grantees based on information developed from the Agency’s reevaluation (two birds, one stone), which would allow us to more precisely evaluate a process change for the Grantees (said that tongue in cheek with hope/optimism). Give it a thought.” Jansen follows up with Lennon, stating that he sent the message to Kligerman and to let him know if she would like him to speak to Kligerman directly. Lennon states that she would like him “to contact Dave directly to discuss this and the memo to OPM re authority to conduct investigations.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0075	H56114-0069-013384	6/25/2018	Lennon forwards email to Luer regarding case management software that would track security clearances and “make the task more efficient.” She asks Luer to look at Jansen’s SOW to ensure it looks OK.	Awareness of and Responses to Security Program Lapses						
AJ0076	H56114-0069-013385	6/25/2018	SOW sent by Jansen regarding BBG/SEC Personnel Security Case Management System.	Awareness of and Responses to Security Program Lapses						
AJ0077	H56114-0075-0002425	8/7/2018	Jansen asks Kligerman if there has been any movement on the approval of the delegated authority letters, the OPM MOU, and the RFE issue related to European law.	Awareness of and Responses to Security Program Lapses; Performance Issues						
AJ0078	H56114-0077-020812	8/30/2018	Fechter lets Jansen know that Kligerman seemed not to have revisited his letters regarding delegation of authority in some time and he hoped that pinging him would “prod him into action. If you email him and I keep bothering him, maybe he’ll move on this.” Jansen replied “Old story, new day!” Fechter responded “Truer words.”	Awareness of and Responses to Security Program Lapses; Performance Issues						
AJ0079	H56114-0075-0003257	9/20/2018	Jansen emails Kligerman about USAGM’s request for delegated authority, “The letters were transferred to your office for approval/signature in May/June 2018; however, I have not received a response concerning either content or signature authority.”	Awareness of and Responses to Security Program Lapses; Performance Issues		X				

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0080	H56114-0096-0099375	10/22/2018	OPM sends letter and draft report to Lennon on behalf of SEA. Lennon forwards to Jansen, commenting “Pretty grim...we’ll need to huddle ASAP.” On 10/25/2018, Jansen forwards the report to Cheng, saying “they have thrown the kitchen sink at us (to get movement, I’m sure).” Cheng forwards the report to Kligerman, telling him “It’s taking away our delegated investigative authority and requiring that we comply with a number of requirements before it’ll consider re-instating that authority....I’ll continue to work w Security. Maybe we can discuss w OPM whether an incremental approach could persuade them to reconsider our investigative authority (if that’s still what we want).”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0081	H56114-0096-0099376	10/22/2018	Letter from OPM to Lansing regarding review of USAGM’s personnel suitability program says that USAGM has not made required corrective efforts from 2014 review and new deficiencies have since been identified, including lack of proper delegated authority.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0082	H56114-0096-0099377	10/22/2018	Draft report by ODNI and OPM on USAGM’s personnel suitability program has 37 recommendations for corrective action. Having failed to take corrective action after the 2014 program review, USAGM must immediately cease investigations and begin using OPM’s National Background Investigations Bureau. If USAGM does not comply with corrective actions within 90 days of the issuance of a final report, its adjudicative authority will also be revoked.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0083	H56114-0034-010718	10/25/2018	Cheng emails Jansen copying Rosenholtz and Fechter with draft letters to OPM and the DNI seeking the reauthorization of delegated authority. On 11/7/2018, Fechter emails Jansen, copying Luer, Rosenholtz, and Lennon the letters asking whether Cheng had everything she needed to finalize the letters. Fechter said the letters might be late given that the group had received OPM’s SNAP inspection report but the letters were still relevant.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0084	H56114-0034-010719	10/25/2018	Draft letter to OPM regarding delegated authority MOU prepared by Cheng.	Awareness of and Responses to Security Program Lapses						
AJ0085	H56114-0034-010720	10/25/2018	Draft letter to Director of DNI regarding delegated authority MOU prepared by Cheng.	Awareness of and Responses to Security Program Lapses						
AJ0086	H56114-0077-009026	10/25/2018	Fechter emails Jansen (copying Lennon) an action plan for response to the OPM report. “You’re also going to notice a lot of ‘management directives’ in responding to OPM’s recommendations. That’s mostly because we can author management directives immediately, while also creating a demonstrable record of having taken fast action....The nature of OPM’s report isn’t lost on any of us—it’s mean spirited in sections—but, again, the spirit of this document is about demonstrating our humility and sincerity...so forgive us for creating action plans on recommendations that appear to be intended more to embarrass us than anything else.”	Awareness of and Responses to Security Program Lapses						
AJ0087	H56114-0077-018730	10/26/2018	On a draft USAGM Office of Security Immediate Action Plan, Jansen comments about the request for reinstatement of delegated authority, “This process is ongoing with OGC.”	Awareness of and Responses to Security Program Lapses						
AJ0088	H56114-0034-009193	10/29/2018	Offering a suggested response to an email from Jansen to Lennon in which Jansen informs Lennon of the need for more security personnel, Luer writes to Lennon “We will not be hiring any additional SEC staff until delegated authority is returned, and we have had an opportunity to observe how the new SOPs/workflow enhancements have impacted operations.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0089	H56114-0034-022952	10/29/2018	Jansen responds to questions from Lennon about the status of the OPM suitability program recommendations "...at some point we will need to talk about staffing this office. Ms. Loss is fully aware that we do not have enough people to process, investigate, and adjudicate cases in the timely manner, as required by OPM. On top of that, we are contemplating a change in the investigative process for the Grantees, which would ultimately bury us completely. We can fix all 37 issues, but staffing this office with the correct number of personnel is the only way to make this process work." On 10/30/2018, Lennon responds, "Do you really think anyone in the front office will approve hiring investigators, etc. given this report? Step one is fix the 37 issues and get our authority back, then staff up the office." Jansen replies, "Hiring is part of the cure. If they don't understand how that fits into this issue, I will explain it tomorrow. I believe Matt will be at the meeting to share SEC's explanation and needs with the CEO. As I stated earlier, if personnel are not forthcoming the agency needs to send operational responsibility for investigative efforts to OPM. That said, no one wants that to happen and therefore I believe that they'll take the request seriously. Moreover, this SNAP report is a wake up call that tells the agency OPM/ODNI is no longer accepting noncompliance while at the same time declaring their expectation that our program will be taken seriously by USAGM, which includes proper staffing. Bottom line, we can't be timely without a staff."	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0090	H56114-0077-009027	10/30/2018	USAGM Office of Security Immediate Action Plan in response to OPM's Suitability review, including responses and deadlines to complete tasks.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0091	H56114-0034-009575	10/31/2018	Cheng emails Walsh, Lennon, Jansen, and Kligerman about the OPM draft report, presenting an argument that USAGM does not need to immediately stop investigative activities. Lennon forwards Cheng’s email to Fechter, Rosenholtz, and Luer. Fechter responds “...smells like snake oil to me. Am I the only one nonplused by Lilian’s email?” Luer adds that he approves of Jansen’s recommendation that USAGM close investigations that are near completion and transfer the new investigations, “Semantics could get us in some hot water!” Rosenholtz says that he will put Jansen’s recommended position into the audit response letter.	Awareness of and Responses to Security Program Lapses						
AJ0092	H56114-0034-021467	10/31/2018	Fechter emails Jansen, copying Lennon, requesting his review of latest draft of action plan for response to OPM report.	Awareness of and Responses to Security Program Lapses						
AJ0093	H56114-0034-022967	10/31/2018	In response to her request, Jansen emails Lennon the draft Personnel Security Management Directive.	Awareness of and Responses to Security Program Lapses						
AJ0094	H56114-0034-022968	10/31/2018	Draft Personnel Security Management Directive states that USAGM has delegated authority from OPM and ODNI to administer its own personnel security program.	Awareness of and Responses to Security Program Lapses						
AJ0095	H56114-0001-013016	11/1/2018	Following an email from Cheng that presented an argument that USAGM was not required to immediately stop conducting background investigations, Walsh asks Lennon and Jansen, copying Kligerman and others, if USAGM should temporarily stop conducting investigation. He outlines the actions OMS is to take in preparing a corrective action plan and response to OPM.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0096	H56114-0007-059360	11/1/2018	Cheng emails Walsh, Lennon, Jansen, and Milko, copying Kligerman regarding her conversation with OPM counsel. Cheng states that she does not believe the agency is required to cease investigations at that time but asks Lennon and Jansen whether it makes sense to take proactive measures in case the agency is later ordered to transfer its investigations. Lennon then responds to Walsh only, explaining that they are working on draft responses and that she has asked for Jansen’s input on some responses before the circulating a first draft to Walsh and Kligerman the following week. Walsh. She states, “The longer we can push out the meeting with JFL, the better chance we’ll have to get solid procedures in place, but we’ll be ready to brief him whenever it’s best for his schedule.” Walsh agrees with the plan and suggests discussing when it makes sense to meet with “JL.”	Awareness of and Responses to Security Program Lapses						
AJ0097	H56114-0065-022862	11/1/2018	Lennon emails Walsh that she has been working on the draft response to OPM’s report on the personnel suitability program and will send it to Jansen because portions require his input.	Awareness of and Responses to Security Program Lapses						
AJ0098	H56114-0034-009940	11/2/2018	Lennon emails Jansen, copying Fechter, Luer, and Rosenholtz, attaching draft responses to OPM’s recommendations and requesting his comments by COB. Jansen responds that he rewrote the Director’s Letter and he will review the recommendations over the weekend. Rosenholtz responds to Lennon, Luer, and Nicholas Fechter noting issues Jansen’s edits, including that the agency has not stopped investigative activities, that was not their plan, and that Jansen should not be the POC.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0099	H56114-0034-023007	11/2/2018	Lennon emails Jansen requesting his input on the draft response to OPM recommendations. Later that day, Jansen responds, “I have attached the beginning of my edits, but it became confusing so I re-wrote the letter on the other attached document (Director’s Letter). Please review/I hope it helps to move the process. I have not had a chance to review the recommendations by recommendations. I’ll get to them Monday. Have a good weekend!” Lennon emails Luer, “This is unacceptable – in so many ways.”	Awareness of and Responses to Security Program Lapses						
AJ0100	H56114-0034-023008	11/2/2018	Draft response cover letter and responses to OPM recommendations with Jansen’s edits.	Awareness of and Responses to Security Program Lapses						
AJ0101	H56114-0034-023009	11/2/2018	Jansen’s rewrite of the cover letter to OPM regarding its draft report. Jansen names himself as the POC.	Awareness of and Responses to Security Program Lapses						
AJ0102	H56114-0032-007992	11/5/2018	Hodge and Rudolph send memo to Jansen regarding the processing policy for federal employees, contractors, and fellows, stating how the Office of Security (SEC) was going to initiate modifications to existing internal in-processing procedures	Awareness of and Responses to Security Program Lapses						
AJ0103	H56114-0034-010339	11/5/2018	Draft of management directives to OMS/S Staff lists Practices to Cease Immediately from OPM’s draft suitability report.	Awareness of and Responses to Security Program Lapses						
AJ0104	H56114-0034-010721	11/7/2018	Draft MOU regarding delegation of investigative authority, prepared by Cheng.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0105	H56114-0034-011061	11/9/2018	Fechter emails Jansen and Lennon discussing the draft letters to OPM/ODNI regarding renewal of the MOU. Fechter believes these drafts were the letters presented to Trimble. Even though they already received the SNAP inspection report, Fechter thinks they should still send the letters.	Awareness of and Responses to Security Program Lapses						
AJ0106	H56114-0034-011019	11/12/2018	Fechter emails Lennon, in response to her email to Jansen regarding his draft presentation outline to the board, “Suspiciously, there’s nothing under Personnel Security :).”	Awareness of and Responses to Security Program Lapses						
AJ0107	H56114-0034-023134	11/12/2018	Lennon emails Jansen with comments on his draft presentation outline to the board. Her version removes bullets regarding Personnel Security from Jansen’s original version. She provides suggested briefing points to Jansen, including one regarding the OPM audit of personnel security.	Awareness of and Responses to Security Program Lapses						
AJ0108	H56114-0034-023135	11/12/2018	Lennon’s revision of Jansen’s draft presentation outline to the board. Details regarding OPM/ODNI report and USAGM’s response to it are removed from Jansen’s original version.	Awareness of and Responses to Security Program Lapses						
AJ0109	H56114-0034-023139	11/12/2018	Jansen emails Lennon, attaching a draft outline for a presentation to the board. Lennon forwards the email and outline to Fechter and writes, “You’ll love this.”	Awareness of and Responses to Security Program Lapses						
AJ0110	H56114-0034-023140	11/12/2018	Jansen’s draft board presentation outline is a detailed overview of the Office of Security and includes discussion of the OPM/ODNI assessment and the actions being taken to correct the deficiencies.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0111	H56114-0007-037061	11/13/2018	Lennon emails Walsh, copying Jansen draft talking points regarding security for USAGM board meeting. In response to Walsh’s question whether the agency’s delegated authority was actually suspended by the OPM draft report, Lennon states the GC should answer that question. “I agree with you that we shouldn’t be alarming the govts and grantees unnecessarily, but we’re trying to play it as safe as possible. I’m not sure GC would see it in the same way.” Jansen responds that the agency’s delegated authority is technically not suspended but the renewal process has been placed in pending mode until corrections are made. Walsh responds, “I don’t think we should say it was suspended though if it wasn’t. Think we should explain the nuance and say we took the step to suspend it ourselves to act in good faith. Or something like that.” Jansen responds with the proposed edited language, “OPM has declined to approve a new Delegation of Investigative Authority to conduct background investigations until USAGM addresses the listed improvements.”	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0112	H56114-0034-023191	11/13/2018	Jansen emails Lennon draft talking points regarding the Personnel Security Division for an upcoming presentation to the Board of Governors. Lennon forwards the talking points to Fechter and Luer.	Awareness of and Responses to Security Program Lapses						
AJ0113	H56114-0034-023192	11/13/2018	Draft talking points regarding the Personnel Security Division for an upcoming presentation to the Board of Governors	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0114	H56114-0034-023210	11/13/2018	Lennon emails Luer, Fechter and Jansen a draft response (version 3) to OPM’s draft report of its review of the Agency’s Suitability Program, saying she is incorporating edits from the week before and adding new edits and questions that need addressing first thing the next day as the GC needs to review it if it needs to go out that Friday. She re-forwards the email to Jansen the next morning saying she needs his input.	Awareness of and Responses to Security Program Lapses						
AJ0115	H56114-0034-023211	11/13/2018	Version 3 of the draft Agency response to OPM’s review of the Agency’s Suitability Program. Cover email is 11/13/18. Date on draft document, which is version 3, is 11/16/13. Document includes edits and comments from Lennon.	Awareness of and Responses to Security Program Lapses						
AJ0116	H56114-0096-0086545	11/13/2018	Lennon emails Walsh, copying Jansen, draft talking points regarding security updates. Walsh responds and asks, “Did OPM really temporarily suspend our delegated authority to conduct investigations? I thought we weren’t sure on that based on the fact that that the report from them is still draft, etc. I just am not sure we should tell the Board that unless we are sure it was suspended... If we aren’t sure, we could just say we decided to operation as if it was suspended to show good faith.” Walsh forwards the talking points to Kligerman. On 11/14/2018, Kligerman provides edits to the talking points.	Awareness of and Responses to Security Program Lapses		X	X		X	
AJ0117	H56114-0034-023223	11/14/2018	Fechter emails Jansen, copy to Lennon and Luer, draft management directives in connection with the Suitability Program review. Lennon forwards the email and attachments to Cheng saying: “I believe your edits have been incorporated and other changes made in response to your suggestions.”	Awareness of and Responses to Security Program Lapses						
AJ0118	H56114-0034-023224	11/14/2018	Management Directive on the Agency’s Suitability Program, prepared by Lennon, addressing “Practices to Begin Immediately,” with edits and comments from Fechter and Cheng.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0119	H56114-0034-023225	11/14/2018	Management Directive on the Agency’s Suitability Program, prepared by Lennon, addressing “Practices to Cease Immediately,” with edits and comments from Fechter and Cheng.	Awareness of and Responses to Security Program Lapses						
AJ0120	H56114-0096-0086546	11/14/2018	Redlined version of talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
AJ0121	H56114-0096-0086548	11/14/2018	Draft talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
AJ0122	H56114-0032-007998	11/15/2018	Memo from Lennon to OMS/S Staff instructing Security staff under the direction of Jansen to ensure that various activities are being performed or will begin immediately, including ensuring the use of e-QIP for all investigation requests, using the current SF86 and correct security forms, referring all cases with potential material, intentional false statements or deceptions to OPM, among other things.	Awareness of and Responses to Security Program Lapses						
AJ0123	H56114-0032-008001	11/15/2018	Lennon sends memo to OMS/S Staff regarding activities that must cease immediately, including requiring applicants and employees to re-sign security form releases upon EOD, revoking and destroying PIV credentials when employees undergo re-investigation, requesting information for background investigations which goes beyond the scope of the Federal Investigative Standards, and use of the SF-86 prior to making an offer of employment.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0124	H56114-0034-023262	11/15/2018	Lennon emails Luer and Fechter asking if they could review a clean version of the Agency’s response to the OPM report on the Suitability Program, to confirm she captured Jansen’s and Cheng’s comments, noting that Cheng “is most concerned about specificity regarding time frames.” Lennon says she “punted on some of them” and needs Jansen’s input on others.	Awareness of and Responses to Security Program Lapses						
AJ0125	H56114-0034-023351	11/16/2018	Lennon emails Fechter and Luer a revised version of the Agency response to OPM’s Suitability Program report that she had asked they review clean to ensure it captures Jansen’s and Cheng’s comments, noting this version has minor changes to reflect answers from Jansen regarding Cheng’s questions and saying they should use this version (version 5).	Awareness of and Responses to Security Program Lapses						
AJ0126	H56114-0034-023285	11/20/2018	Management Directive attached to USAGM response to OPM, regarding “Activities to Cease Immediately”, including: employees re-signing security releases; revoking/destroying PIV when employee is re-investigated; investigations that go beyond the scope of investigative standards; and use of SF-86 unless USAGM is granted an exception	Awareness of and Responses to Security Program Lapses						
AJ0127	H56114-0034-023286	11/20/2018	Management Directive attached to USAGM response to OPM report, regarding “Activities to Begin Immediately”, including: ensure use of e-QIP; use of current SF-85; report all suitability determinations to OPM; update internal processes; conduct suitability adjudication on closed investigations; and adhere to SOP guidelines.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0128	H56114-0077-008796	12/3/2018	Jansen emails Loss at OPM thanking OPM for a thorough assessment of the USAGM suitability/security program, noting that SEC has attempted to obtain or comply with requirements “but oversight issues stymied [the Agency’s] efforts” and since receiving the report, “things [at the Agency] have certainly changed” and the inspection results “spurred immediate interest in security programs and an urgency to correct past decisions/practices.” He notes the response USAGM sent on actions and proposed actions and asked for a point-of-contact from OPM’s inspection team as the Agency remedies.	Awareness of and Responses to Security Program Lapses						
AJ0129	H56114-0034-021518	12/11/2018	Jansen emails Lennon, copy to Rosenholtz, Luer, and Fechter that he had a lengthy discussion with James McLaren (GC Office) and “[l]ong story short, he informed me that David Kligerman’s opinion allows for the investigation of Grantee personnel” but “[t]hat said, it looks like [they] can revert to the initial format with two possible options” - continue as is but with a contractor handling the NAC investigations, or evaluate each Grantee position for investigation under the Tier. He adds: “Needless to say, it bothers me a bit that this was the outcome of a conversation in which David was not privy; however, either way we can move forward with this issue.” He says that McLaren was asked to provide a written opinion, which will follow ASAP. Fechter responds with a file “attempt[ing] to include the option of having SEC do all the Federal staff while outsourcing grantee investigations.”	Awareness of and Responses to Security Program Lapses						
AJ0130	H56114-0077-015335	1/30/2019	Fechter emails Jansen, Cobb, and Lennon a list of 27 USAGM commitments in response to OPM regarding its personnel suitability program review, requesting completion dates. “The real meat and potatoes is: Re-evaluating the position sensitivity of our current employees and creating an accompanying PDR (Position Designation Record) for each...”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0131	H56114-0007-028778	3/6/2019	Jansen emails RFE /RL employee Genovese regarding changes in the security process for grantees. On 3/8/2019, RFE/RL chief of staff Fetzko forwards the email to Walsh as “the latest communication on the background check issues” and says it was good talking to him that morning.	Awareness of and Responses to Security Program Lapses						
AJ0132	H56114-0077-015334	3/13/2019	Fechter emails Jansen asking requesting completion dates on 27 USAGM commitments in response to OPM personnel suitability program recommendations.	Awareness of and Responses to Security Program Lapses						
AJ0133	H56114-0007-051774	5/16/2019	Jansen emails Nweke raising issues he has with how Security is being discussed on the Risk Review. He notes the MOU expired but all personnel security investigations were reported to OPM and recorded in CVS. Jansen does not think the “situation” (lack of delegated authority) “amounts to a risk factor”; and they are currently trying to reduce the backlog created by lack of SEC staff. Raises issue of 5 CFR 1400 and how the Agency “classified all USAGM positions as noncritical sensitive” requiring Tier 3 investigation; and now complying with CFR 1400 using PDT. Overall Jansen in the chain is somewhat aggressive and defensive of his position.	Awareness of and Responses to Security Program Lapses						
AJ0134	H56114-0077-012524	6/7/2019	Jansen forwards to other security office employees clarification related to processing fingerprints for e-QIP investigations. Velazquez raises question to Jansen about any changes to overseas subjects; and Cuaycong responds that overseas is determined pre-suitability without fingerprints	Awareness of and Responses to Security Program Lapses						
AJ0135	H56114-0077-007265	6/17/2019	Rudolph emails security personnel including Jansen an outline of process updates for applicant processing and onboarding. Jansen compliments her work.	Awareness of and Responses to Security Program Lapses						
AJ0136	H56114-0009-009373	8/2/2019	Fechter emails Lennon regarding the draft ODNI report, “all those conversations that [Jansen] was/is having with ODNI are really paying off! They don’t want his team doing investigations OR adjudications.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0137	H56114-0009-009375	8/2/2019	Rosenholtz emails Lennon regarding the draft ODNI report, asking “do we have any plan to, ‘validate that prior national security adjudications were conducted according to applicable guidelines and policy?’” He also comments that Jansen took an argumentative tone with ODNI.	Awareness of and Responses to Security Program Lapses						
AJ0138	H56114-0077-010704	8/2/2019	Tran emails Jansen (with a copy to Lennon and the CEO office) regarding a draft report from ODNI on the 2018 reassessment of USAGM’s personnel security program. USAGM is requested to stop conducting national security background investigations and to have all individuals investigated since the 2012 expiration of investigative authority re-investigated by the National Background Investigations Bureau (NBIB), and to stop conducting national security adjudications until personnel are properly trained. Jansen responds that USAGM has already started having NBIB conduct its background investigations, and that he has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators. On 8/5/2019, Walsh responds requesting a meeting to discuss the response to OPM/ODNI and grantee background checks.	Awareness of and Responses to Security Program Lapses						
AJ0139	H56114-0077-010681	8/5/2019	Lennon emails Jansen and others requesting information for a briefing to Walsh on the OPM/ODNI reports and grantee background investigations.	Awareness of and Responses to Security Program Lapses						
AJ0140	H56114-0009-047158	8/6/2019	In response to Lennon’s request for information to brief Walsh on the OPM/ODNI report and grantee background investigations, security employee Hodge clarifies that ODNI has not given written confirmation that USAGM is permitted to continue to perform adjudications, but Hodge will ask for an email confirming a prior telephone conversation.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0141	H56114-0009-056530	8/7/2019	Fechter emails Lennon a spreadsheet tracking the status of recommendations from the OPM/ODNI reports, finding that eight ODNI recommendations remain outstanding. Jansen is the action owner of the open recommendations.	Awareness of and Responses to Security Program Lapses						
AJ0142	H56114-0009-056532	8/7/2019	Spreadsheet tracking the status of recommendations from the OPM/ODNI reports includes required actions not yet completed.	Awareness of and Responses to Security Program Lapses						
AJ0143	H56114-0007-014080	8/13/2019	CEO office employee Milko emails ODNI a letter responding to the ODNI reassessment of the USAGM personnel security program, with a copy to Lennon, Jansen, and the CEO office.	Awareness of and Responses to Security Program Lapses						
AJ0144	H56114-0007-014081	8/13/2019	Letter from Lansing to ODNI states that USAGM has transitioned its investigative functions to NBIB, and encloses a response to the ODNI recommendations along with adjudicator training certificates.	Awareness of and Responses to Security Program Lapses						
AJ0145	H56114-0007-012939	8/22/2019	OPM letter to Lansing, copying Lennon and Jansen, with attached report on USAGM Suitability Program notes that USAGM failed to take action on recommendations from 2014 review and lacks proper delegated authority to conduct background investigations. Lansing forwards this report to Walsh upon receipt.	Awareness of and Responses to Security Program Lapses						
AJ0146	H56114-0007-048709	8/22/2019	OPM Miltner emails Lansing, copying Lennon, Jansen, Johns, and several others from OPM, attaching a copy of OPM’s final report on USAGM’s personnel suitability program. Lansing forwards the email and attachment to Walsh and states, “I have no idea what this is.” Walsh responds that this is the final report from OPM and he would fill Lansing in the following day. “We knew this was coming and I think we’re in good shape to respond.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0147	H56114-0009-047506	8/22/2019	OPM emails Lennon and Jansen (as well as others) stating they conducted a program review of USAGM personnel suitability program and found no corrections had been made based on the 2014 review. Found 38 deficiencies that pose potential risks to national security.	Awareness of and Responses to Security Program Lapses						
AJ0148	H56114-0060-003003	9/25/2019	ODNI emails Lennon and Jansen the final SecEA SNAP report.	Awareness of and Responses to Security Program Lapses						
AJ0149	H56114-0060-003004	9/25/2019	Letter from ODNI to Lansing and attached final report says USAGM shall immediately cease conducting national security background investigations, notes the 2012 expiration of delegated authority, and finds that USAGM did not correct any of the 2014 recommendations.	Awareness of and Responses to Security Program Lapses						
AJ0150	H56114-0032-006464	10/30/2019	Email calendar reminder for a meeting that includes Jansen to address 16 unclosed recommendations from the OPM/ODNI audit.	Awareness of and Responses to Security Program Lapses						
AJ0151	H56114-0009-031872	12/14/2019	Meeting scheduled for 11:30-12:30 on 12/14/19, by Luer, for Lennon, Cobb, Jansen, Fechter and Rosenholtz to discuss the new onboarding process resulting from the changes to the Agency’s personnel security program. Agenda items include: Determination of Position Sensitivity (via OPM’s PDT) and Position Designation Records “[and c]oming to consensus on USAGM application of OPM’s guidance”; Identification of PDs for prioritization; Setting EOD dates in concert with SEC; and SEC performing suitability determination and “(getting HR out of the process of reviewing SF-68s and SF-85s)”.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0152	H56114-0032-007990	1/30/2020	The agency had a meeting to prepare for OPM and ODNI's return. Fechter sends a message to all meeting attendees, including Jansen, that "Following today's kick-off meeting on OPM/ODNI's return, I wanted to set aside some time to go over some major areas of preparation in anticipation of any interviews OPM and ODNI may want to conduct with HR personnel regarding suitability or other aspects of USAGM's Personnel Security Program in which HR plays a role."	Awareness of and Responses to Security Program Lapses						
AJ0153	H56114-0006-052301	4/7/2020	OCEO executive assistant Cummings emails presentation material on Grantee Personnel Background Investigations and a document on Overview of Grantee Investigation Requirements to recipients including Turner, Lennon, and Jansen. Turner forwards it to his personal email.	Awareness of and Responses to Security Program Lapses; Performance Issues						
AJ0154	H56114-0006-052302	4/7/2020	Presentation on Grantee Personnel Background Investigations outlines the criteria for tiered and non-tiered investigations of grantee personnel.	Awareness of and Responses to Security Program Lapses						
AJ0155	H56114-0096-0144397	4/14/2020	Lennon emails Walsh (with a copy to Kligerman) regarding RFE background investigations, relaying Jansen's opinion that most RFE staff could be investigated at a Tier 1 level, and attaching an informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0156	H56114-0032-024080	5/12/2020	Jansen emails OGC Cheng attaching two draft memos on grantee background investigations for her review. “I have argued for years that the Agency must re-evaluate how Agency assigned International Broadcasters (IB) and others are evaluated; however, I’ve been continually overruled based on historic rhetoric or arguments regarding depth of investigative need (yes, this includes our latest interactions with 1400). Neither argument trumps PDT nor has it duped oversight (OPM/ODNI) who continually identify issues with our position sensitivity declarations. Changes need to be made with process but tackling the power-structure to approve this may be an issue for me. I bring this up, as there is no way that our broadcasters, many of whom are foreign nationals, should be holding non-critical sensitive positions, as it doesn’t fit the position description nor the Agency’s mission...”	Awareness of and Responses to Security Program Lapses						
AJ0157	H56114-0032-024081	5/12/2020	Draft memo from Jansen to Lennon regarding grantee background investigations concludes that most grantee investigations will be at a Tier 1 level, and outlines a personnel security investigation process for grantees.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

AJ0158	H56114-0032-024082	5/12/2020	<p>Draft memo from Jansen regarding grantee background investigations says of the current vetting plan, “As I remember it, the current plan to reinstate vetting of Grantee personnel was based on decisions made by the former CEO, who at the time, did not wish to have all Grantee personnel vetted. He instead ordered that all Grantee personnel encumbering sensitive positions be subjected to a Tiered investigation and that all other Grantee personnel holding non-sensitive positions be subjected to only a DO check. This process, as written, fails to meet Federal guidelines, as it does not uniformly vet Grantee personnel as required under EO 13467 and 13488. This process also utilizes inflated sensitivity levels that misidentify positions as sensitive. I have continually maintained the belief that Federally employed or contracted personnel holding the position of International Broadcaster, the main parity group considered under this program, do not encumber sensitive positions and that the Position Designation Records produced to make this determination are inaccurate due to either a misinterpretation of the PDT qualifiers or possibly issues related to the use of exaggerated qualifiers.” Regarding the arguments offered by USAGM for a waiver of 5 CFR 1400, he continues, “historical references have continually been mentioned when discussing the development of USAGM’s position sensitivity program per 5 CFR 1400. Several missives, cited within the latest memorandum, indicate that on March 21, 1991 the USIA director of security, Bernard Dowling, sent two letters to OPM for the purpose of contesting a proposed change concerning the definition of the term, ‘National Security Positions.’ On April 30, 1991 a response from OPM was received advising, ‘The decision on your request that USIA be permitted to use SF 86 for all applicant and employee investigations is contingent upon the final definition of national security positions. OPM would require a determination by the head of USIA that all positions within USIA meet the criteria of national security positions to approve this request.’ Subsequently, the definition was changed; however, there is no record of a determination from the director of USIA nor a letter of authorization from OPM allowing USIA to set the requested parameters. Even if there</p>	Awareness of and Responses to Security Program Lapses						
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APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
			were an affirmative response from OPM, it would now be superseded with the advent of 5 CFR 1400, as was evidenced by USAGM's suspension of delegated authority by both OPM and ODNI for failure to comply with this Federal regulation. In other words, why are we utilizing these letters?"							

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0159	H56114-0009-079017	5/13/2020	OGC Cheng emails Jansen (copying Lennon and Kligerman) suggested revisions to his two draft memos on grantee background investigations.	Awareness of and Responses to Security Program Lapses						
AJ0160	H56114-0009-079019	5/13/2020	Draft memo from Jansen regarding grantee background investigations questions the justifications given for USASGM’s 5 CFR 1400 waiver request.	Awareness of and Responses to Security Program Lapses						
AJ0161	H56114-0032-027839	7/21/2020	Meeting scheduled for end of day by Luer, requesting attendance of Lennon, Jansen and others, to discuss the suitability report follow-up.	Awareness of and Responses to Security Program Lapses						
AJ0162	H56114-0032-022974	7/23/2020	Rosenholtz emails Lennon, Luer, Fechter and Jansen, suggesting creation of a timeline to show how they prepared Article X for the grant agreement, OGC “pulled those agreements back,” how RFE/RL “pushed back”, and that the CEO Office “requested info on additional flexibilities”. On 7/24/2020 Rosenholtz emails again attaching a draft timeline.	Awareness of and Responses to Security Program Lapses						
AJ0163	H56114-0032-026797	7/23/2020	In response to Cullo’s email earlier in the day asking questions of Lennon’s iterative reports and information responding to the July 2020 OPM Suitability Program report, Lennon provides internal reactions to Jansen and others, Luer provides his comments, and then Jansen’s adds his. On the 178 cases where investigation has not be re-initiated because the subject is a grantee employee (Cullo had questions about that), Lennon says the issue is complicated and explains why. She explains the process by which the former way of investigating these subjects became outdated and her team responded by proposing procedures that needed to be incorporated into the FY2020 grant agreements before implemented, but were still under review by OGC.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0164	H56114-0077-026290	7/23/2020	Jansen emails Hodge and Rudolph: “I’m about to send the ODNI report to OMS. Keep your head down, incoming...”	Awareness of and Responses to Security Program Lapses						
AJ0165	H56114-0032-023056	7/26/2020	Newman emails Lennon, “USAGM no longer has the authority to make suitability determinations.” On 7/27/2020, Lennon forwards the email to Jansen, Luer, Fechter, Rosenholtz, and Hodge. Jansen responds that read the OPM report as containing a threat to revoke adjudicative authority, but not actually doing so. Rosenholtz responds, agreeing with Jansen, but adding that they might not have all the relevant information.	Awareness of and Responses to Security Program Lapses						
AJ0166	H56114-0032-026840	7/27/2020	Jansen forwards to Lennon his request to OPM for info on investigations on individuals being onboarded, and OPM’s response that they have been working with Newman directly. Jansen says to Lennon: “Appears the CEO office is doing an end around. Ms. Newman went directly to Lisa Loss who runs the division in OPM that oversees delegated authority.” He also notes that he sent a message to Massimo “and he apparently has provided the accounts without our authority” and “indicated that he was being ‘pressured all over.’”	Awareness of and Responses to Security Program Lapses						
AJ0167	H56114-0032-023115	7/28/2020	Hodge emails Jansen attaching a document regarding the status of the outstanding OPM recommendations.	Awareness of and Responses to Security Program Lapses						
AJ0168	H56114-0032-023116	7/28/2020	Consolidated list of open OPM Security recommendations with Hodge’s notes on status and plan.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0169	H56114-0032-023198	7/29/2020	Jansen emails Hodge with a proposed Agency response to Recommendation 13. The response includes a note that SEC is “in the process of re-working itself after years of hiring restrictions, budget neglect, and personnel issues.” He indicates that the 2018 SNAP report grabbed the attention of the Director at the time and set in motion additional hiring and funding to support a program that had been struggling. He contrasts the results of the earlier SNAP inspection results and believes that SEC is moving in the right direction. He also indicates that Pack is transforming SEC.	Awareness of and Responses to Security Program Lapses						
AJ0170	H56114-0032-028938	7/29/2020	Jansen emails Lennon, copying Hodge, Luer and Fechter, and attaching draft OPM and ODNI responses.	Awareness of and Responses to Security Program Lapses						
AJ0171	H56114-0032-028939	7/29/2020	Draft ODNI Report Response for Lennon’s review.	Awareness of and Responses to Security Program Lapses						
AJ0172	H56114-0032-028940	7/29/2020	Draft OPM Report Response for Lennon’s review.	Awareness of and Responses to Security Program Lapses						
AJ0173	H56114-0055-002596	7/29/2020	Email from Jansen to Lennon, copying Hodge discussing whether SEC has to discontinue adjudicative services. Jansen confirmed with an ODNI Assessment Officer that the Agency is under no obligation to discontinue adjudicative activities until the final report is issued. OPM has not responded to requests for assistance/information.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0174	H56114-0055-002595	7/31/2020	Lennon emails Rosenholtz, Fechter and Luer a draft email to Cullo and Newman with a status report on the response to the OPM/ODNI July 2020 Report and the Feb. 2020 SNAP Report. The draft email states that they have been creating CAPs to bring SEC into full compliance, but that there are two issues that need to be addressed. The first is whether they can continue adjudications. Cheng advises that they should be able to continue, but should seek clear guidance from both agencies. She is attaching an email with Jansen’s perspective. The second issue is whether the international broadcaster positions have the ability to “potentially bring about a material adverse effect upon the national security.” Lennon notes that this has been the subject of controversy for many years and she is attaching the OGC’s most recent perspective.	Awareness of and Responses to Security Program Lapses						
AJ0175	H56114-0058-020619	8/3/2020	Jansen messages Lennon regarding the draft responses to the OPM and ODNI reports. Jansen’s interpretation of the ODNI report is that they do not have to report to ODNI before the 60 day mark, and then every two weeks thereafter.	Awareness of and Responses to Security Program Lapses						
AJ0176	H56114-0077-039232	8/4/2020	Jansen messages Bruce, Hodge and Rudolph: “Pack is playing politics with Sec as the trump card. Interesting that no one has talked to Sec concerning the factual content of the reports.” Jansen notes that he mentioned to someone that not all the allegations in the report were correct and that SEC has a response to make of the BS recommendations. He believes that rough waters will continue.	Awareness of and Responses to Security Program Lapses						
AJ0177	H56114-0032-026969	8/5/2020	Jansen emails Lennon and copies Hodge with a draft response to Holbert, ODNI Snap Team, in response to Holbert’s request for an update on the recommendations. Jansen lists seven items that they have started.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – JANSEN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁶					
					T ¹⁷	R ¹⁸	D ¹⁹	H ²⁰	J ²¹	IT ²²
AJ0178	H56114-0070-012077	8/6/2020	Jansen emails Fechter, copying Hodge, asking him if anything has been accomplished in regards to 5 CFR 1400 activities by OHR, in order to provide an update to ODNI. Fechter forwards the email to Luer and Lennon and asks: “What is Drew talking about here? Compliance with 1400, this is killing me.”	Awareness of and Responses to Security Program Lapses						
AJ0179	H56114-0068-012548	8/7/2020	Lennon messages Jansen asking to discuss the OPM report with him so she can get clarification on some items.	Awareness of and Responses to Security Program Lapses						
AJ0180	H56114-0077-036674	8/7/2020	Jansen messages Hodge complaining that he is busy fixing Lennon’s changes to the draft response to the OPM report. “Im fixing her fixing of the report that I fixed last night”.	Awareness of and Responses to Security Program Lapses						
AJ0181	H56114-0077-026932	8/12/2020	Jansen messages Hodge asking her to verify how many attempts were made to the OPM Snap Team and to whom. He says he is going to reach out to OPM contact Loss for her advice on who to talk to.	Awareness of and Responses to Security Program Lapses						
AJ0182	H56114-0077-041266	8/14/2020	Lang, Lawrence, Bowman, Katarski and L. Smith, all apparently former USAGM/BBG security personnel, email each other regarding the Politico article on the purge at USAGM. They discuss the lack of resources provided to SEC by management over the years. Lang states that he and Jansen served Lennon with countless requests for additional resources and corrective action on the OPM inspection, but she wouldn’t move forward to the CEO until much later in the process. Lawrence remarks that when he spoke to Jansen six months ago, he indicated that Lennon was present but it went above her, although she did not comment. The email string is forwarded to Jansen.	Awareness of and Responses to Security Program Lapses						

Extended Appendix

An Excel containing the master document timeline relating to these memos, with worksheets for each individual from which the Appendix A timelines for each are derived, is too large to e-mail, and is therefore made available for download via the following

link: <https://mcguirewoods.sharefile.com/d-se7d0f9fb5ea64062a4a6a0f8710f38fb>.

The Appendix B document compilations for each of the memos are too large to e-mail, and are therefore made available for download via the following link:

<https://mcguirewoods.sharefile.com/d-sc64745d85def49079efa10d3471a15dc>

The link is password-protected, to access please use **2079862-4ZseKSm**. Each Appendix B is a tabbed PDF, with the bookmarked tabs in the PDF corresponding to the numbered timeline entries of each memo's Appendix A.

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review - David Kligerman Summary

Name: David Kligerman, General Counsel

Summary of Basis for Investigative Leave:

Kligerman was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- His background investigation being performed when USAGM lacked proper authority (security clearance granted 12/20/2013).
- Failure to remedy personnel and security concerns escalated to his attention and within the scope of his role.
- Pursuit of an exemption request that ignored the serious security concerns identified by OPM/ODNI.
- Various management issues relating to risk management, veracity, transparency, potential conflicts of interest and professionalism.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Kligerman's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Kligerman. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Kligerman's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Kligerman. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Kligerman is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

Personnel Security – 5 CFR 1400 Implementation

Documents identified in our review indicate that Kligerman resisted implementing the personnel security requirements of 5 CFR 1400, and instead pushed for a waiver that caused the Agency to delay assessments under the Position Designation System (PDS). This appears to have caused employees to receive background investigations at the wrong levels, and to have delayed the re-evaluation of grantees as well, raising concerns about foreign national personnel receiving higher clearance than may have been appropriate.

The documents indicate that from a personnel security perspective, Kligerman had a key role to play in implementation of 5 CFR 1400, which was enacted on June 5, 2015 and required federal agencies to reassess all assigned positions for sensitivity and risk using the PDS. Agencies were given a two-year period to complete this re-assessment. Kligerman was made aware of this requirement at least as early as November 2016, when the Agency Security Working Group (David Kligerman, Frederick Lang, Andrew Jansen, Piero Ciancio, Marie Lennon and Nicholas Fechter) met to discuss, among other items, how to handle personnel security for grantees.¹ Security was to create a plan for how to use the Agency designations as a model for the grantee investigations.² According to the notes of the meeting, they discussed the determination made in the past by leadership that all Federal positions within the Agency would be classified under a blanket category of “non-critical sensitive.”³ As a result of the new security regulations for using the PDS, that blanket designation appears to have come into question. Kligerman said that he would check to see if there was anything that prescribed OCB sensitivity levels, and that he would research why they have OCB employees at different levels than other Agency employees.⁴ Also discussed was that they needed to review all the position sensitivity designations in the Agency and that they had less than one year to comply with this regulation.⁵ They discussed that during a recent security audit by OPM, the question of risk to the Agency was raised regarding the investigations of grantee personnel.⁶ OPM felt that the Agency should not be performing this function because of potential liability, but Kligerman determined it was permissible to continue.⁷

On December 19, 2016, Jansen sent a memo to Lennon detailing the requirements of 5 CFR 1400.⁸ In that memo, he referenced a 2015 OPM/ODNI audit where one of the most important deficiencies was the Agency’s failure to properly classify the position sensitivity of each position within the Agency.⁹ There was a warning in the report that failure to correct the deficiencies may result in the revocation of delegated investigative authority.¹⁰ Jansen notes that the Agency had taken the position that it had received authorization from OPM to classify all positions as sensitive, but that there was no evidence of such an agreement.¹¹ Jansen stated that the Agency could no longer self-proclaim a minimum position sensitivity for all positions and that all positions must be assessed using the PDT within 2 years.¹² He indicated that

¹ H56114-0096-0080709

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ H56114-0096-0139117

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

management and OHR were notified in 2015 and again in early 2016, and that OGC had no objection.¹³ The next step was for the Office of the CEO to be notified and to authorize OHR to initiate the assessment process.¹⁴ However, if the process was further delayed, the Agency must request an extension.¹⁵ This memo was attached to an email sent to Kligerman in 2017, along with other documents related to this issue.¹⁶ It appears that Kligerman edited this memo in April 2017, to change the recommendation to obtain new authorization from OPM to classify all positions within the Agency not determined to be critical-sensitive, as non-critical sensitive.¹⁷

In November 2017, Fechter emailed Kligerman attaching a memo titled Personnel Security Risks Facing the BBG.¹⁸ Among other things, this memo recognized instances in the past where hostile foreign intelligence services have placed agents within the Agency to build credibility as a trusted federal employee.¹⁹ The identified concern was that as a trusted employee with a clean background investigation, an intelligence agent could apply to a posting to deal with more sensitive matters at another federal agency.²⁰ Discussions continued until February 2018, when the Agency learned that OPM/ODNI would be performing a joint audit that April.²¹ Fechter again emailed the latest version of the reassessment memo that made the case for a blanket waiver.²² In March 2018, Fechter requested an extension, and drafted a request for a waiver for Kligerman's review.²³ John Lansing signed the waiver letter dated May 8, 2018.²⁴

OIG had recommended, in February 2017, that USAGM establish a written protocol on background investigations to comply with Article X of its grant agreements.²⁵ In June 2018, in response to the OIG investigation and recommendations that grant amendments include specific requirements for security policies, Jansen recommended to Kligerman that the Agency (i) withdraw the 1400 exemption request, (ii) initiate a reevaluation of position sensitivity agency-wide, and (iii) then assess the status of the grantees based on this information, which would allow them to evaluate a process change for the grantees.²⁶ According to a timeline drafted by Daniel Rosenholtz on July 24, 2020, in response to the July 2020 OPM/ODNI report, a first draft of Article X was circulated in May 2018, but due to GDPR issues, it took until November 2019 before it was ready for sign-off.²⁷ In January 2020, it had not been sent to grantees because it was still under review by OGC.²⁸ In March 2020, OCFO told OMS that Kligerman had become unresponsive regarding the grant agreements, so they sent the agreements to grantees for review.²⁹ In April 2020, Kligerman pulled them back under OGC review.³⁰ On April 29, 2020, Kligerman told Tran that the grantees had been issued grant agreements but that there "are certain terms and conditions that we are

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ H56114-0096-0139112

¹⁷ H56114-0096-0041104; H56114-0096-0041105

¹⁸ H56114-0068-009347; H56114-0068-009348

¹⁹ *Id.*

²⁰ *Id.*

²¹ H56114-0069-039900

²² H56114-0069-038847; H56114-0069-038848

²³ H56114-0069-034390

²⁴ H56114-0096-0080708

²⁵ H56114-0032-022975

²⁶ H56114-0077-020812

²⁷ H56114-0032-022975

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

looking to add at some point this fiscal year.”³¹ He then offered to take the discussion offline.³² On March 3, 2020, OCFO received a signed amendment to Article X for RFE/RL that addressed grantee background investigations.³³ On May 1, 2020, John Barkhamer told Turner that they were still using the CR type of grant agreement and that the ball was in Kligerman’s court, as he wants to address grantee comments and concerns.³⁴

General Response to OPM/ODNI Reports

On August 2, 2017, Jansen sent Kligerman the final OPM report and asked that they meet to discuss full compliance since some of the issues were under OGC review.³⁵ It is unclear what follow-up was done. In July 2020, Morvared Namdarkhan emailed Kligerman with the July 2020 OPM report and asked him what he knew about these issues and what OGC did to address them.³⁶ We have not found a reply to this email, although the documents indicate that Kligerman had Lillian Cheng draft a response that essentially distanced OGC from being involved substantively in the corrective action plans by indicating that OGC has given general legal advice by reviewing draft documents and briefing former CEO Lansing.³⁷ It is unclear from the documents reviewed whether frequent/periodic substantive briefings had been given to Lansing on these issues.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Kligerman’s:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Documents potentially relevant to consideration of Kligerman’s reliability, discretion, judgment and use of information technology have been flagged in certain of the Timeline entries associated with Kligerman. Notably with respect to Kligerman, the Timeline includes two examples of his forwarding potentially sensitive USAGM-related documents to his personal e-mail account. Such misuse of information technology is in violation of agency policies around e-mail use and document retention, could potentially implicate laws and regulations governing the maintenance of Federal records and is a basis to question Kligerman’s reliability, trustworthiness, discretion and judgment. The Timeline provided at

³¹ H56114-0001-042014

³² *Id.*

³³ H56114-0001-011780; H56114-0001-011781

³⁴ H56114-0006-029030

³⁵ H56114-0068-029670

³⁶ H56114-0075-0025910

³⁷ *Id.*

Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

Further, the performance issues outlined below are potentially relevant to consideration of Kligerman's reliability, discretion and judgment.

Performance Issues

Dereliction of Responsibility

The documents reviewed indicate that Kligerman has been a target of criticism for his failure to carry out his duties in a prompt, responsible manner.

As stated in the draft FY2019 Risk profile, "the lack of engagement by OGC staff has led to delayed, little, or zero guidance to internal requests, creating a risk of litigation and non-compliance which costs the Agency."³⁸ There are numerous examples in the documentary record of employees sending documents, agreements and policies to Kligerman for his review, to which he was either non-responsive or would respond only following multiple prompts or the passage of significant periods of time (at times months). In some instances, items were never addressed and approved. One example is the updated Smith-Mundt guidance for the BAM, which was sent to Kligerman for review in September 2017, and by the end of August 2018 had still not been approved.³⁹ Different employees raised the request to Kligerman via a number of e-mails over time, with the issue only coming to a head when a July 19, 2018 NY Times article raised the question of whether certain Facebook ads are a Smith-Mundt violation.⁴⁰

Lack of Transparency

There are documents indicating that Kligerman did not operate in a transparent fashion, and regularly resisted inspection and scrutiny. This includes indications that Kligerman and the OGC interceded in disputes on behalf of Libby Liu in a potentially improper or ill-advised manner, and took steps to remove identified risks relating to the OGC from the purview of the Enterprise Risk Management (ERM) process.

The documents include indications that Kligerman served as a "buffer" between RFA/Liu and the Agency. For example, in one instance Liu requested a release of funds without providing a requested project-by-project list, and Kligerman allowed her to proceed.⁴¹ In another, OTF/Liu refused to submit the required ranking of proposed projects for the budget, and per Rob Fallon, Kligerman and Liu handled it through separate discussion.⁴²

The documents also indicate that Kligerman directed that OGC-related risks identified as part of the ERM process be removed from a draft of the FY2019 Risk Profile circulated on December 13, 2018.⁴³ The OGC Risk statement was originally as follows: "Legal guidance and counsel is critical to USAGM's operations, especially in the highly-regulated areas of employment, civil rights, policy, Information technology, contracts, and security; however, the lack of engagement by OGC staff has led to delayed, little, or zero guidance to internal requests, creating a risk of litigation and non-compliance which costs the

³⁸ H56114-0096-0139825

³⁹ H56114-0002-012921; H56114-0002-012909

⁴⁰ H56114-0043-026398

⁴¹ H56114-0002-017910

⁴² H56114-0095-018598

⁴³ H56114-0096-0111872

Agency valuable resources, including time, money, and brand equity.”⁴⁴ Cheng made edits (on behalf of OGC and at the direction of Kligerman) to remove the risk as “not accurate.”⁴⁵ Because this risk was removed from the profile, it was not monitored and therefore no related corrective action was taken.

In addition, the documents indicate that Kligerman would frequently take important discussions “offline” and not reply in writing, making it unclear what his advice was on certain issues. For example, in one such instance in November 2019, Walsh sent an email indicating that Liu pulled him aside at an OTF summit in Taiwan and said she talked to Kligerman about a new RFA succession plan where she would be pro bono director and run things behind the scenes.⁴⁶ Kligerman responded: “let’s take this offline please.”⁴⁷ Similarly, in January 2020, when discussing the revised grant agreement and return of funds provision that the Agency wanted to include (and that Liu was resisting), Kligerman responded that the attorneys should speak offline.⁴⁸

HR Concerns

Other potential HR-related issues have been identified in connection with Kligerman and are reflected in the documents reviewed. For example, the promotion of David Kotz from a contractor to a full time employee in OGC followed multiple complaints to Kligerman about Kotz’s limited expertise in employment and labor law, his lack of attention to detail, and his rude, inappropriate, and aggressive behavior.⁴⁹ Joan Mower’s complaint about Oahn Tran being pre-selected for an SES position because she covered for various illegalities was forwarded to Kligerman, with no indication whether he investigated these allegations.⁵⁰ Further, in December 2019, Kligerman was pushing for senior level OGC slots, possibly to get approval before Michael Pack was confirmed as CEO.⁵¹

⁴⁴ *Id.*

⁴⁵ H56114-0096-0139825

⁴⁶ H56114-0001-070226

⁴⁷ *Id.*

⁴⁸ H56114-0096-0107409

⁴⁹ H56114-0007-005952

⁵⁰ H56114-0007-058500

⁵¹ H56114-0009-095431

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0001	H56114-0071-053325	9/10/2015	Cabral to Lennon stating that Kligerman has had policy/task since June 15th and no response; missed deadlines	Performance Issues		X			X	
DK0002	H56114-0084-006191	1/25/2016	Kligerman emails Shell and Lansing about concerns Armstrong has raised about use of RFA funds, “Recommendation: In short, if Matt or someone else is desirous to look further into the allegations, much of this seems like something that the RFA board (as the RFA Board) would look further into, if they were so inclined.” He attaches notes from an 11/24/2015 meeting with Armstrong.	Performance Issues						
DK0003	H56114-0084-006192	1/25/2016	Kligerman’s notes from 11/24/2015 meeting with Armstrong to discuss concerns about use of RFA funds summarize the discussion “Nothing at first blush seems to rise to the level of the assertions that Matt made re money laundering and prima facie fraud or attempts to defraud. Given that his allegations centered on internal RFA governance issues, Matt, in his capacity as an RFA Board member, supports bringing in an independent, 3rd party to conduct an internal RFA investigation of certain conduct by RFA management. BBG could approve funds requested for this by the RFA Board, but would otherwise not be involved.”	Performance Issues						
DK0004	H56114-0095-046716	1/25/2016	RFA board member raises allegations of money laundering and improper use of funds, and Kligerman is brought into the discussion. Has phone call in Nov. 2015 but does not follow-up again till Jan. 2016	Performance Issues		X	X		X	

⁵² No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

⁵³ Trustworthiness

⁵⁴ Reliability

⁵⁵ Discretion

⁵⁶ Honesty

⁵⁷ Judgment

⁵⁸ Use of Information Technology

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0005	H56114-0058-012978	3/7/2016	Jansen email to OPM discussing grantees and background investigations, as well as delegated authority. Jansen to Kligerman asking for advice related to OPM FIS changing investigation requirements related to grantees. Also notes SAC imbalance is threatening their delegated authority. Lennon to Kligerman specifically referencing MBN concern over grantee background investigations. Earlier emails in chain are	Awareness of and Responses to Security Program Lapses						
DK0006	H56114-0058-014478	3/7/2016	OPM email to Jansen discussing personnel security and HSPD-12 for grantee organizations; asks whether they need to perform background investigations. Jansen emails Kligerman further discussing grantee investigations and questions existence of delegated authority (“not in compliance with MOU between OPM and BBG”). Lennon to Kligerman notes MBN unhappy over SEC background checks; and FIS would require changes related to grantees. MBN is slow to enact SEC current process.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0007	H56114-0077-060073	3/31/2016	Kligerman email about BBG personnel security program: grantees not falling under HSPD-12; discussion of what falls under MOU and delegated authority; and just overall what background checks/investigations they can do on grantees.	Awareness of and Responses to Security Program Lapses						
DK0008	H56114-0077-060518	4/4/2016	OPM employee Paul responds to a question from Kligerman about background investigations for grantee positions, “I believe it would be in the best interest of your agency to align your whole investigative program consistently rather than segregating your populations into pieces with their special requirements. It seems like you would have a stronger, more efficient and effective program.” Kligerman schedules a meeting with Lang and Jansen to discuss OPM’s comments and next steps for BBG.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0009	H56114-0077-073632	4/5/2016	Jansen emails Kligerman regarding a discussion between Kligerman and OPM about background investigations for grantee positions, “here are a few reasons this situation must be reevaluated: 1) The PAC indicated that we have no authority 2) OPM cannot identify an investigative policy giving us the authority to conduct investigations related to grantee personnel 3) The investigative material concerning a grantee investigation is not releasable to the grantee 4) The BBG/IBB adjudicative decisions concerning Grantee investigations are not binding and can be ignored without further explanation by the Grantee 5) The grantees are private entities having no logical and physical access to government facilities/information systems, which places their personnel outside the purview of our investigative authorities --5 CFR 731 (suitability and fitness), EO 10450 (sensitive positions), and EO 12968 (access positions) 6) The grantees currently utilize adjudicative findings based on federal guidelines to determine hiring and retention of a civilian workforce Just so I can end this, how about we meet sometime this week and discuss the matter.”	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0010	H56114-0103-012334	10/24/2016	Kligerman gives legal advice on the release of grant funds to RFA saying, “I think we can make the argument that so long as they are funds that we already indicated would go to RFA, then they are covered by the spend plan...”.	Performance Issues						
DK0011	H56114-0070-007848	11/16/2016	Fechter emails minutes of November 16th “Updates on Security Projects” meeting to Jansen, Kligerman, and Lennon.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0012	H56114-0070-007849	11/16/2016	Kligerman, Jansen, Lennon and others meet to discuss updates on security projects including physical security and position sensitivity level for agency personnel. Minutes note that past Agency leaders determined “that all Federal positions within the Agency would be classified under a blanket category of “non-critical sensitive.” That blanket designation has come into question in the past couple of years...”	Awareness of and Responses to Security Program Lapses						
DK0013	H56114-0096-0080709	11/16/2016	Security Working Group memo indicates that past Agency leadership determined “that all Federal positions within the Agency would be classified under a blanket category of ‘non-critical sensitive,’” and shows knowledge of Kligerman, Jansen, and Lennon that BBG has less than one year to review and re-classify everyone’s position sensitivity across the entire Agency.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0014	H56114-0070-026483	1/27/2017	Fechter emails Kligerman for an update regarding the legal context of OCB’s tier 5 level background investigations, as originally discussed in a November 2016 meeting on security project updates.	Awareness of and Responses to Security Program Lapses						
DK0015	H56114-0070-008217	3/2/2017	Andross emails Kligerman and Lennon additional OIG documents concerning BBG IT and security issues.	Awareness of and Responses to Security Program Lapses						
DK0016	H56114-0070-008221	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2013.	Awareness of and Responses to Security Program Lapses						
DK0017	H56114-0070-008224	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2014.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0018	H56114-0070-008227	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2015.	Awareness of and Responses to Security Program Lapses						
DK0019	H56114-0070-008232	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2016.	Awareness of and Responses to Security Program Lapses						
DK0020	H56114-0070-008526	3/24/2017	Fallon emails Lansing, copy to Kligerman and Lennon, attaching a memo from Mower to the landing team the day before, voicing various concerns, and raises questions about her credibility and other problems with her claims.	Performance Issues						
DK0021	H56114-0070-008527	3/24/2017	Undated memo from Mower lists examples of alleged “Bloat/Inefficiency” in administrative jobs at the agency/VOA, mentions examples of “burrowers” too, and questions what several people do in their roles.	Performance Issues						
DK0022	H56114-0085-034875	4/18/2017	Fallon (chief of staff) emails Kligerman, copy to others, including Lennon and Tran, summarizing the meeting the day before to discuss the agency’s travel processes and “possible directions for tightening up our position.” He says he gave the CEO a readout and the CEO was broadly supportive, and lists out what the changes would be, including that the CEO see and sign off on all federal, non-firewall protected travel and “[the CEO] believes strongly that, given the fiscal situation, [the agency] need[s] to put [themselves] in the best position possible when defending [their] travel budget.” There is also a discussion about setting travel caps. There is further discussion through May 2017. Tran then forwards it to Walsh on 8/15/18, more than a year later, with no text in the email body.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0023	H56114-0096-0041104	4/18/2017	Kligerman emails Lennon and Fechter a draft memo on 5 CFR 1400 compliance, which was edited from Jansen’s original memo.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0024	H56114-0096-0041105	4/18/2017	Draft memo on 5 CFR 1400 compliance, which was edited from Jansen’s original memo.	Awareness of and Responses to Security Program Lapses						
DK0025	H56114-0095-018598	5/24/2017	Nweke emails Lansing, Kligerman, and Fallon about issues with OTF’s budget stemming from OTF’s failure to submit the required ranking of proposed projects. Fallon drops Nweke from the email and indicates that Kligerman spoke to Liu about the issue.	Performance Issues						
DK0026	H56114-0068-011303	6/7/2017	Ramos emails Kligerman about an OGC waiver letter for credit and compensation hours that she had been trying to get Kligerman to provide for several months.	Performance Issues		X				
DK0027	H56114-0068-029670	8/2/2017	Jansen sends Kligerman OPM’s final report on BBG’s suitability and security. Report calls out designation of position risk, investigation processing, and other security program issues at BBG.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0028	H56114-0087-093054	9/28/2017	Rosenholtz emails Kligerman asking for his review of proposed updates to a Smith-Mundt policy document. On 11/1/2017, Rosenholtz forwards the email to Trimble and VOA employee Baise. On 11/27/2017 Baise requests Trimble’s assistance in getting a response from OGC. On 12/1/2017, Trimble responds to Baise, “Just pinged [Kligerman] hard on this.” On 1/18/2018, Baise again emails Trimble, “Rosenholtz approved our Smith-Mundt edits to the BAM and handed off to GC over three months ago. We’d really like to get this locked down.”	Performance Issues		X				

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0029	H56114-0010-008579	10/4/2017	Lennon, Kligerman, Jansen and Fechter meet to discuss 5 CFR 1400 compliance and whether to seek a waiver.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0030	H56114-0068-009347	11/1/2017	Fechter emails Kligerman (with a copy to Lennon and Jansen) documents requested by Kligerman as background 5 CFR 1400 compliance, including a draft document titled “Personnel Security Risks Facing the BBG”.	Awareness of and Responses to Security Program Lapses						
DK0031	H56114-0068-009348	11/1/2017	Draft document titled “Personnel Security Risks Facing the BBG” includes discussion of foreign intelligence agencies targeting BBG. Fechter has deleted the section discussing the risk of BBG losing its delegated authority to conduct personnel security operations (but it is still visible in the markup view of the draft document).	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0032	H56114-0087-093051	12/11/2017	VOA employee Baise emails Kligerman and VOA director Bennett regarding a draft Smith-Mundt policy document, “our edits to the BAM regarding Smith-Mundt have not received approval from GC.” On 1/10/2018, Kligerman responds asking for the language that needs to be reviewed, which Baise sends.	Performance Issues		X				
DK0033	H56114-0002-012921	1/8/2018	Baise asks Trimble whether a meeting should be called on Smith-Mundt guidance because the document was handed to GC over three months ago.	Performance Issues		X				
DK0034	H56114-0002-012918	1/10/2018	Baise states that VOA has not yet received approval from the GC regarding Smith-Mundt guidance. Kligerman asks for the latest document because there were a number of meetings and then it went cold for a while. Baise states that Kligerman may be remembering a previous effort, but that Doug Boynton had forwarded the document already.	Performance Issues		X				

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0035	H56114-0087-093050	1/30/2018	VOA employee Baise emails Kligerman regarding a draft Smith-Mundt guidance document. “Following up on our discussion from last week. Did you have a chance to make those edits to either the guide or the BAM?”	Performance Issues						
DK0036	H56114-0069-039901	1/31/2018	OPM inspector Wold emails Jansen informing him that a review of the BBG security and suitability program is tentatively scheduled for April 2018. On 2/1/2018, Jansen forwards Wold’s email to Lennon. On 2/2/2018, Fechter attaches it to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses						
DK0037	H56114-0069-039902	2/1/2018	Andross emails Turner, Jansen and others about open OIG recommendations from an inspection of MBN. Three of the open recommendations require action by OCFO regarding de-obligation of funds, closure of expired grants, and inventory reconciliation. The fourth open recommendation, regarding the establishment of a protocol for grantee background investigations, requires action by OMS and OGC. On 2/2/2018, Fechter attaches Andross’s email to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0038	H56114-0069-039900	2/2/2018	Fechter emails Kligerman (with a copy to Lennon) regarding BBG’s commitment to OIG to establish a protocol for investigating grantee positions and the upcoming OPM/ODNI review of BBG’s security and suitability program. Fechter points out that OPM and ODNI are monitoring BBG’s progress on 5 CFR 1400 compliance. Attached again are the documents sent to Kligerman on 11/1/2017 as background on 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0039	H56114-0069-038869	2/7/2018	Fechter emails Lennon in follow-up to his 2/2/2018 email to Kligerman regarding 5 CFR 1400 compliance, attaching a draft memorandum with the subject line “Reassessment of Agency Positions for National Security Sensitivity Levels”. “I had attached everything but the latest version of this memo that makes the case for the blanket waiver when I sent this last email to you and he. Let me know if this isn’t EXACTLY what David wants.”	Awareness of and Responses to Security Program Lapses						
DK0040	H56114-0069-038870	2/7/2018	Draft memorandum addressed to Lansing with the subject line “Reassessment of Agency Positions for National Security Sensitivity Levels” states that 5 CFR 1400 required reassessment of all BBG position sensitivity designations by 7/6/2017, that BBG has asked OPM for an extension of the compliance deadline, and that OMS/SEC and GC recommend that the CEO seek a waiver from OPM “to classify all positions within the Agency not determined to be critical-sensitive, as non-critical sensitive”. The draft memorandum refers to the 2015 OPM/ODNI threat to revoke BBG’s delegated authority if positions are not properly designated. It refers to past authorization from OPM to classify all positions as sensitive, about which Lennon has inserted the editorial comment “Am I correct that we don’t actually have a copy of said ‘authorization?’”	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0041	H56114-0069-038678	2/9/2018	Kligerman asks Fechter for prior waiver memos. Fechter only has correspondence between USIA and OPM/OFI from 1991, which he attaches. Kligerman thanks him.	Awareness of and Responses to Security Program Lapses						
DK0042	H56114-0069-038847	2/9/2018	Fechter emails Kligerman (with a copy to Lennon) attaching a draft memo to Lansing (sent to him a short while before by Lennon) regarding their stance on 5 CFR 1400 that BBG request a blanket waiver to maintain the status quo.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0043	H56114-0069-038848	2/9/2018	Draft memo to Lansing through Trimble and Lennon from Jansen regarding a reassessment of agency positions for national security sensitivity levels that states that “GC, OMS/HR, and OMS/SEC believe the best course of action is to request a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive, broadening the number and type of positions from those mentioned in the correspondence dated 1991, specifically “International Radio Broadcasters, writers, editors and related positions.” “	Awareness of and Responses to Security Program Lapses						
DK0044	H56114-0002-032295	2/12/2018	Kligerman emails Ullah regarding the review of consultant appointments that he has had them for eight days, but did not know they were urgently needed.	Performance Issues						
DK0045	H56114-0002-032314	2/12/2018	OPR employee King emails Kligerman asking about the status of consultant appointments under review by OGC. Kligerman responds that he has had the consultant packages for a week, which is “well within the reasonable period of time. We are short staffed and doing what we can...Now that I know that this is a priority. We will get it turned around asap.”	Performance Issues						
DK0046	H56114-0002-012914	2/26/2018	After Baise sends email regarding waiting on final approval/edits from OGC on Smith-Mundt guidance, Kligerman asks for the latest document because he though Baise made changes. Baise stated that there have not been any changes and they are waiting for Kligerman’s edits.	Performance Issues		X				
DK0047	H56114-0087-093047	2/26/2018	VOA employee Baise emails Kligerman regarding a draft Smith-Mundt guidance document under review by OGC. “There have not been any changes made to our draft since the committee wrapped up several months ago... We’re waiting for your edits because you had concerns about certain passages.”	Performance Issues		X				

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0048	H56114-0069-035745	2/28/2018	Fechter requests a meeting with Kligerman to discuss the draft memorandum to Lansing regarding 5 CFR 1400 compliance. On 3/1/2018, Kligerman responds to Fechter, Lennon, and Rosenholtz “This needs to wait until next week or Friday afternoon if it can.”	Awareness of and Responses to Security Program Lapses						
DK0049	H56114-0069-033880	3/8/2018	Draft letter from Lansing to ODNI “requests exemption from the requirement that each covered position be assessed via OPM’s Position Designation Tool (PDT) to derive position sensitivity.”	Awareness of and Responses to Security Program Lapses						
DK0050	H56114-0069-034390	3/8/2018	Fechter emails Kligerman (with a copy to Lennon) requesting Kligerman’s review of a draft memorandum to OPM/ODNI with the subject line “Extension for full compliance of 5 CFR 1400”.	Awareness of and Responses to Security Program Lapses						
DK0051	H56114-0069-034391	3/8/2018	Draft memorandum to OPM/ODNI with the subject line “Extension for full compliance of 5 CFR 1400” says that “While the Agency has been working to become fully compliant with the regulation since the passing of 5 CFR 1400...the BBG’s General Counsel in coordination with senior management in the Office of Management Services would like to request a waiver to the requirement in 5 CFR 1400 to assess or re-assess the position sensitivity of all covered positions at the Agency. As an alternative, the Agency would like to request permission for a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive.”	Awareness of and Responses to Security Program Lapses		X	X	X	X	

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0052	H56114-0069-034428	3/8/2018	Fechter forwards to Lennon correspondence with ODNI and OPM regarding BBG’s request for an extension of to comply with 5 CFR 1400. “I didn’t put David K on this email, but the ODNI folks are looking for a real response on 1400. I’m bringing this to your attention because I’m not sure if these are the guys we need to petition for a waiver, or if we should tell them we’re going to petition for a waiver with their colleagues. I can reach out to Drew, but Drew isn’t inclined to play ball on this strategy, he clearly wants to fully comply with 1400.” Lennon responds “I don’t know how we can avoid having DK involved. How about drafting something that tells them we are in the process of requesting a waiver?” Fechter responds that he will do so, but “I’m just wondering if we know who to petition. I will check with David, but I’m sure he won’t know.”	Awareness of and Responses to Security Program Lapses			X		X	
DK0053	H56114-0069-033879	3/12/2018	Fechter emails Kligerman (Lennon and Rosenholtz copied), again requesting Kligerman’s review of the draft 5 CFR 1400 waiver request memo to OPM/ODNI, along with a draft letter over Lansing’s signature formally requesting the waiver.	Awareness of and Responses to Security Program Lapses						
DK0054	H56114-0069-033881	3/12/2018	Draft 5 CFR waiver request memo to OPM/ODNI with the subject line “Extension for full compliance of 5 CFR 1400”.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0055	H56114-0087-093055	3/14/2018	VOA employee Baise emails Kligerman regarding draft Smith-Mundt policy and guidance documents. "...the final version of each document was submitted to GC in October for your edits. I have periodically sent you emails to remind you that we cannot proceed without your input. We also scheduled a formal meeting to address our language on January 26, with all key stakeholders in attendance (you, Doug Boynton, Dan Rosenholtz, Bridget Serchak, Steve Springer) but were unable to make any progress on edits. I again requested your edits on February 28 when we gathered to discuss Bridget's specific concerns about Smith-Mundt. Before, during, and after the meeting I asked for your edits... I'm asking to please help us close this out by giving us your edits on both attached Word docs as soon as possible." Baise forwards the email to Trimble on 3/26/2018, commenting "For whatever reason I cannot get Dave to give us his edits." On 3/30/2018, Trimble responds that he has spoken to Kligerman, who apologized and said he would resolve it shortly. On 4/25/2018, Baise replies to Trimble that he has not yet heard anything. On 4/26/2018, Trimble responds that he has spoken to Kligerman, who again apologized and said he would attend to the documents.	Performance Issues						
DK0056	H56114-0077-046032	3/16/2018	Meeting scheduled among Kligerman, Jansen, Fechter and Rosenholtz to discuss draft 5 CFR 1400 waiver and extension request.	Awareness of and Responses to Security Program Lapses						
DK0057	H56114-0069-014999	3/19/2018	Kligerman emails Lennon and Turner recommending immediate action on an attached OIG report and draft response regarding an audit of RFE/RL after-employment benefits. "OIG is saying that enough is enough, and they have lost patience with what we have been reporting/promising/not promising for the last few years on this issue."	Performance Issues		X	X		X	

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0058	H56114-0069-015001	3/19/2018	Letter from OIG to Lansing regarding the status of recommendations from a 2014 OIG audit of RFE/RL after-employment benefits says “that based on the last response, very little progress has been made on these recommendations. As a result, your next response should address completing action expeditiously. Further delays may be reported to Congress.”	Performance Issues		X	X		X	
DK0059	H56114-0069-015016	3/19/2018	Draft response to 2014 OIG recommendations from an audit of RFE/RL after-employment benefits says that BBG has drafted a new grant monitoring SOP, but that the procedure is still under review and has not been issued.	Performance Issues						
DK0060	H56114-0069-031546	3/19/2018	Weekly report from Fechter to Lennon relates a (1) meeting with Jansen to discuss the justification for additional security resources and (2) Kligerman has the draft 5 CFR 1400 waiver request for review, although the 3/16/2018 meeting to discuss them was missed.	Awareness of and Responses to Security Program Lapses						
DK0061	H56114-0069-030832	3/28/2018	Fechter emails Kligerman seeking advice concerning draft memorandum and draft letter requesting extension for compliance and waiver of 5 CFR 1400 requirements copying Lennon.	Awareness of and Responses to Security Program Lapses						
DK0062	H56114-0069-030833	3/28/2018	Draft memorandum from Lennon to OPM/ODNI requesting an extension for completing full compliance of 5 CFR 1400 attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
DK0063	H56114-0069-030834	3/28/2018	Draft letter from Lansing to Director of National Security requesting a waiver of 5 CFR 1400 requirements attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0064	H56114-0069-029741	4/4/2018	Fechter forwards a string of emails to Kligerman which begin on March 14, 2018 that seek advice from Kligerman concerning the attached draft memorandum and draft letter requesting extension for compliance and waiver of 5 CFR 1400 requirements copying Lennon and Jansen.	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0065	H56114-0069-029742	4/4/2018	Draft letter from Lansing to Director of National Security requesting a waiver of 5 CFR 1400 requirements attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
DK0066	H56114-0069-029743	4/4/2018	Draft memorandum from Lennon to OPM/ODNI requesting an extension for completing full compliance of 5 CFR 1400 attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
DK0067	H56114-0077-067711	4/11/2018	Fechter sends Jansen, with Lennon copied, two documents IBB planned to send to ODNI that Lennon and Fechter wanted Jansen to review and edit. Kligerman’s recommendation was to ask for a continuation of the status quo. Jansen provides his edits to Fechter’s documents to ODNI.	Awareness of and Responses to Security Program Lapses						
DK0068	H56114-0069-011079	4/12/2018	Lennon tells Jansen that the memos need to move the next day, and Jansen states that he finalized his corrections to the first letter and that he has asked Hodge to obtain the required numbers. Hodge states that the critical sensitive and special sensitive numbers have been added.	Awareness of and Responses to Security Program Lapses						
DK0069	H56114-0069-040192	4/12/2018	Kligerman asks who made the changes to the memos and that he wrote it a certain way to preserve the legal position. Jansen tells Fechter “this was the reason I thought it best for him to write the letter in the first place. Send it however he wishes it sent and have a great weekend.” Fechter replied “I hear ya, but if we had waited for him to write the letter himself, we wouldn’t be off the starting blocks. I’m afraid this is just how it goes when GC gets involved.”	Awareness of and Responses to Security Program Lapses; Performance Issues		X				

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0070	H56114-0069-027214	4/18/2018	Fechter asks Kligerman whether he is willing to run the waiver past Lansing for his awareness and signature. Fechter follows up with Kligerman the next day.	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0071	H56114-0069-027157	4/19/2018	Lennon asks Kligerman if he wants OMS to handle the 1400 memo instead of him. Kligerman says “No. I’ve just got sidetracked with some other unexpected stuff. And Drew raised a good point re the 5 cfr standard being superseded so I wanted to take a quick look at that before final. It will be done today.”	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0072	H56114-0069-014419	4/23/2018	Lennon states that she saw Kligerman in the hallway who wants them to get the 1400 memo to Lansing. She states “let’s discuss in the morning.”	Awareness of and Responses to Security Program Lapses						
DK0073	H56114-0077-044912	4/23/2018	Fechter asks Jansen if he has been able to review the final version of the memo. Jansen asks whether they are meeting that morning, and Fechter said yes, about staffing, and asks whether Jansen wants to include the memo in the meeting.	Awareness of and Responses to Security Program Lapses						
DK0074	H56114-0002-022929	4/25/2018	Fritschie asks various individuals to review testimony that Dr. Swett will deliver the next day. She tells Kligerman “I could really use your eyes on the interpretation I’m offering on the \$50.5m required in FY17 (and \$55m this year) for internet freedom funds. I think her argument that somehow those funds are earmarked just for circumvention is spurious.”	Performance Issues						
DK0075	H56114-0069-014122	4/25/2018	Jansen, through Trimble, sends Lansing a memo on Reassessment of Agency Positions for National Security Sensitivity Levels.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²						
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸	
DK0076	H56114-0002-012922	4/26/2018	Beginning in Nov. 2017, Baise sought GC approval of Smith-Mundt guidance. He followed up in January 2018. In March 2018, he followed up with Trimble stating that he felt like he had exhausted all options and cannot get Kligerman to provide his edits, and Trimble stated that he spoke with Kligerman who said he would resolve it shortly. Baise followed up again in April 2018, and Trimble stated that Kligerman apologized again and had “tried to assign this task to a colleague but didn’t get the result he needed, so he must turn to this himself. “	Performance Issues		X					
DK0077	H56114-0043-008805	4/27/2018	Tran asks Kligerman and Parish to review the policy statement on prohibition of harassment on April 4, 2018. Milko follows up on April 6, again on April 9, which prompts Kligerman to ask Parish and James to review. Milko follows up on April 10. Parish states that the policy needs revisions but because they are tied up in depositions, they will have to get revisions to them when they can. Tran stated that mandatory harassment training starts the next day, but Parish states the policy as written is not acceptable and distribution of the policy can be done at a later date. Tran follows up again April 25. Milko follows up on April 26 with a deadline of May 1. James sends a copy of the approved policy on April 27. Milko emails CEO Office stating that it’s much longer and more complex than the previous policy and the public probably shouldn’t see all 12 pages of that policy.	Performance Issues							
DK0078	H56114-0069-014120	5/8/2018	Lennon brings Trimble on board with the 1400 letter and Trimble states that he supports Lansing signing the letter. Tran sends the letter signed by Lansing.	Awareness of and Responses to Security Program Lapses							
DK0079	H56114-0069-013851	5/25/2018	Fechter sends Lennon a draft explanation for delayed delegated authority for Kligerman, stating it’s what “Chris, Dan and I dreamt up for approaching David.” Lennon replies “I think the big smooch will do it...”	Awareness of and Responses to Security Program Lapses							

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0080	H56114-0007-005952	5/30/2018	LER Williams-Jones emails Lennon expressing concern about the potential hiring of Kotz. On 7/27/2018, Williams-Jones emails Lennon again, copying Walsh, that she has not had any response to her prior email, and that more information about Kotz’s inappropriate behavior has emerged. Outside of the email string, Walsh speaks to Williams-Jones about the issue. On 8/1/2018, Williams-Jones emails Lansing, copying Walsh and Lennon, that she has not received any answers to her concerns, and that “employees are upset and anxious about the Agency’s plan with respect to David Kotz.” Williams Jones meets with Walsh and Lennon about the issue on 8/3/2018. Walsh disagrees with the claims that Kotz is creating a hostile work environment, and references the extensive reference checks done by Kligerman.	Performance Issues			X		X	
DK0081	H56114-0069-013793	5/30/2018	Lennon sends Kligerman a draft memo to the Director of OPM regarding BBG’s Delegation of Authority, for his review.	Awareness of and Responses to Security Program Lapses						
DK0082	H56114-0002-017910	6/1/2018	Liu asks for assistance because the BBG Budget office is withholding funds pending a project by project list, which she states is not something OTF can provide due to its rolling submission process. In an email without Liu, Walsh brings up that it raises a broader question of how OTF operates, and how it has “barely explained how [it] plan[s] to spend.” Kligerman states “There are supposed to be reporting requirements including biannual or quarterly reports under the framework/governance document.” Turner states “In OCFO we know very little about OTF’s operations, but perhaps OIF folks know more.”	Performance Issues						
DK0083	H56114-0087-093044	6/4/2018	Kligerman emails VOA employee Baise attaching OGC edits to a draft Smith-Mundt guidance document. On 6/5/2018, Baise responds to Kligerman, attaching a revised draft addressing OGC edits. On 6/13/2018, Baise emails Kligerman asking again for his response to the revised draft.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0084	H56114-0002-012911	6/13/2018	Kligerman provides edits to Smith-Mundt guidance on June 4, 2018 and Baise asks for additional review after revisions.	Performance Issues						
DK0085	H56114-0002-012910	6/18/2018	Baise from VOA tells Bennett from VOA that OGC has not provided edits on Smith-Mundt guidance despite constant requests over a period of seven months. Eventually OGC made edits that were inappropriate for the audience, and VOA had to revise, but then did not hear from OGC again.	Performance Issues						
DK0086	H56114-0077-066838	6/20/2018	On June 8, 2018, Jansen sends Kligerman an email regarding a request for information concerning RFE investigations and the Grantee Agreement. He also states “Concerning the resolution of the IG recommendation, I believe that this will be best resolved following OPM’s decision concerning our 1400 exemption request, which is pending. That said, we could withdraw the exemption request and initiate an immediate reevaluation of position sensitivity, agency wide, and then assess the status of the Grantees based on information developed from the Agency’s reevaluation (two birds, one stone), which would allow us to more precisely evaluate a process change for the Grantees (said that tongue in cheek with hope/optimism). Give it a thought.” Jansen follows up with Lennon, stating that he sent the message to Kligerman and to let him know if she would like him to speak to Kligerman directly. Lennon states that she would like him “to contact Dave directly to discuss this and the memo to OPM re authority to conduct investigations.”	Awareness of and Responses to Security Program Lapses						
DK0087	H56114-0002-048544	7/11/2018	Memo from H. Ullah regarding a request and justification to bring S. Powers on board at the maximum starting salary with the highest step within GS 15.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0088	H56114-0087-093081	7/19/2018	VOA employee Baise emails Kligerman regarding draft Smith-Mundt policy documents, “We’ve been trying to get approval of our Best Practices Smith-Mundt language since last fall... I’m pressing again here because of this NYT article just published: https://www.nytimes.com/2018/07/19/technology/facebook-ads-propaganda.html I cannot put a fine enough point on this. We need to get this language out immediately.”	Performance Issues		X				
DK0089	H56114-0043-026398	7/20/2018	Kligerman asks for the attachments Baise sent stating “I know that initially they put together materials that allowed for certain domestic dissemination to “diaspora groups” and have been fighting with them about it for a while. It is finally resolved, I think, but that is what happens when they go all the way with crafting a policy and don’t involve GC from the outset. Thanks, Dave PLEASE DON’T FORWARD THIS EMAIL ON.” He follows up with an email to Walsh stating “Can we chat. I am not happy.” Walsh states “Yep happy to chat. I haven’t talked to baise, just that email. I reforward his attachments. This is why you’re co-leading the WG, though – so we can put a policy in place. Think it’s a good opportunity.”	Performance Issues						
DK0090	H56114-0075-0002240	8/2/2018	After asking OIG for an extension on its inspection of REF/RL’s proposed revision to the grant agreement, Andross follows up with Kligerman again for his clearance of a proposed response. Kligerman was included on many emails beginning in July and did not respond to them.	Performance Issues						
DK0091	H56114-0065-020604	8/6/2018	Cobb’s notes from meeting with OGC Wojcik and Kligerman to discuss Wojcik’s concerns with Kotz’s behavior and performance. Kligerman had hired Kotz. Wojcik notes that she had already provided Kligerman with the information but was stating it again. Wojcik was concerned that Kligerman’s investigation of Kotz did not include other people in the agency but rather his references.	Performance Issues			X		X	

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0092	H56114-0075-0002425	8/7/2018	Jansen asks Kligerman if there has been any movement on the approval of the delegated authority letters, the OPM MOU, and the RFE issue related to European law.	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0093	H56114-0007-063027	8/17/2018	Walsh emails Kligerman that he will not reply to a request from Wojcik for information about investigations of Kotz’s behavior and will defer to Kligerman’s response.	Performance Issues			X		X	
DK0094	H56114-0096-0000355	8/17/2018	Cobb asks Kligerman to deal with Wojcik, who asked for Cobb’s notes from her meeting with Kligerman. Kligerman states that it is his understanding that Wojcik is not entitled to Cobb’s work product.	Performance Issues						
DK0095	H56114-0006-025675	8/21/2018	In response to what the next steps are to get \$3500 for the BBG Impact event, Filipkowski asks Turner whether they are “going to use these Data Sales funds and consider them Representation funds? That would exceed our Cap for Domestic uses.” Turner replies that was Kligerman’s solution. Filipkowski states “I don’t see where he states these would be classified as Rep funds. For any reporting purposes, if they are classified as Rep, we would have to report them that way. I still don’t understand why OGC objected to request through can “reprogramming” some of the Overseas Rep funds into the Domestic Rep funds for a one-time event. That would be the cleanest way and get the decision out of BBG’s hands.”	Performance Issues						
DK0096	H56114-0007-062161	8/30/2018	Kligerman and Walsh discuss SES appointment memo with Tran and Lansing copied.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0097	H56114-0077-020812	8/30/2018	Fechter lets Jansen know that Kligerman seemed not to have revisited his letters regarding delegation of authority in some time and he hoped that pinging him would “prod him into action. If you email him and I keep bothering him, maybe he’ll move on this.” Jansen replied “Old story, new day!” Fechter responded “Truer words.”	Awareness of and Responses to Security Program Lapses; Performance Issues						
DK0098	H56114-0075-0003257	9/20/2018	Jansen emails Kligerman about USAGM’s request for delegated authority, “The letters were transferred to your office for approval/signature in May/June 2018; however, I have not received a response concerning either content or signature authority.”	Awareness of and Responses to Security Program Lapses; Performance Issues		X				
DK0099	H56114-0096-0099620	10/18/2018	Andross emails OGC about open recommendations from an OIG audit of RFE/RL: “Recommendation 6 has specifically asked the Agency to amend its grant agreement with RFE/RL to include specific requirements for security policies. We had been hoping to close this recommendation by sharing RFE/RL’s revised security policies with OIG. However, OIG is not showing much flexibility and is still asking for the amendment to the grant. The current response kicks this question down the road, but if the Agency is willing to amend the grant agreement, we might want to let them know in this response and provide the updated grant agreement in the next round.” Kligerman requests an extension to respond, which is granted. On 10/29/2018, the new due date, Andross emails Cheng seeking the OGC response. Cheng forwards to Kligerman.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0100	H56114-0096-0099375	10/22/2018	OPM sends letter and draft report to Lennon on behalf of SEA. Lennon forwards to Jansen, commenting “Pretty grim...we’ll need to huddle ASAP.” On 10/25/2018, Jansen forwards the report to Cheng, saying “they have thrown the kitchen sink at us (to get movement, I’m sure).” Cheng forwards the report to Kligerman, telling him “It’s taking away our delegated investigative authority and requiring that we comply with a number of requirements before it’ll consider re-instating that authority....I’ll continue to work w Security. Maybe we can discuss w OPM whether an incremental approach could persuade them to reconsider our investigative authority (if that’s still what we want).”	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0101	H56114-0096-0099376	10/22/2018	Letter from OPM to Lansing regarding review of USAGM’s personnel suitability program says that USAGM has not made required corrective efforts from 2014 review and new deficiencies have since been identified, including lack of proper delegated authority.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0102	H56114-0096-0099377	10/22/2018	Draft report by ODNI and OPM on USAGM’s personnel suitability program has 37 recommendations for corrective action. Having failed to take corrective action after the 2014 program review, USAGM must immediately cease investigations and begin using OPM’s National Background Investigations Bureau. If USAGM does not comply with corrective actions within 90 days of the issuance of a final report, its adjudicative authority will also be revoked.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0103	H56114-0077-018701	10/25/2018	Initial enterprise risk assessment for USAGM notes shortcomings in OGC, HR, and Contracts.	Performance Issues		X	X		X	
DK0104	H56114-0077-018730	10/26/2018	On a draft USAGM Office of Security Immediate Action Plan, Jansen comments about the request for reinstatement of delegated authority, “This process is ongoing with OGC.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0105	H56114-0034-009575	10/31/2018	Cheng emails Walsh, Lennon, Jansen, and Kligerman about the OPM draft report, presenting an argument that USAGM does not need to immediately stop investigative activities. Lennon forwards Cheng’s email to Fechter, Rosenholtz, and Luer. Fechter responds “...smells like snake oil to me. Am I the only one nonplused by Lilian’s email?” Luer adds that he approves of Jansen’s recommendation that USAGM close investigations that are near completion and transfer the new investigations, “Semantics could get us in some hot water!” Rosenholtz says that he will put Jansen’s recommended position into the audit response letter.	Awareness of and Responses to Security Program Lapses						
DK0106	H56114-0001-013016	11/1/2018	Following an email from Cheng that presented an argument that USAGM was not required to immediately stop conducting background investigations, Walsh asks Lennon and Jansen, copying Kligerman and others, if USAGM should temporarily stop conducting investigation. He outlines the actions OMS is to take in preparing a corrective action plan and response to OPM.	Awareness of and Responses to Security Program Lapses						
DK0107	H56114-0007-059360	11/1/2018	Cheng emails Walsh, Lennon, Jansen, and Milko, copying Kligerman regarding her conversation with OPM counsel. Cheng states that she does not believe the agency is required to cease investigations at that time but asks Lennon and Jansen whether it makes sense to take proactive measures in case the agency is later ordered to transfer its investigations. Lennon then responds to Walsh only, explaining that they are working on draft responses and that she has asked for Jansen’s input on some responses before the circulating a first draft to Walsh and Kligerman the following week. Walsh. She states, “The longer we can push out the meeting with JFL, the better chance we’ll have to get solid procedures in place, but we’ll be ready to brief him whenever it’s best for his schedule.” Walsh agrees with the plan and suggests discussing when it makes sense to meet with “JL.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0108	H56114-0096-0086476	11/13/2018	Cheng emails Fechter asking him for the 5 CFR 1400 waiver request letter and the follow up email. Fechter responds, attaching a series of documents regarding the extension and waiver request, including Lansing’s 5/8/2018 waiver request letter and Fechter’s 2017 emails seeking an extension of time for compliance. Cheng forwards the email and attachments documents to Kligerman.	Awareness of and Responses to Security Program Lapses						
DK0109	H56114-0096-0086545	11/13/2018	Lennon emails Walsh, copying Jansen, draft talking points regarding security updates. Walsh responds and asks, “Did OPM really temporarily suspend our delegated authority to conduct investigations? I thought we weren’t sure on that based on the fact that that the report from them is still draft, etc. I just am not sure we should tell the Board that unless we are sure it was suspended... If we aren’t sure, we could just say we decided to operation as if it was suspended to show good faith.” Walsh forwards the talking points to Kligerman. On 11/14/2018, Kligerman provides edits to the talking points.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0110	H56114-0096-0086546	11/14/2018	Redlined version of talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
DK0111	H56114-0096-0086548	11/14/2018	Draft talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
DK0112	H56114-0007-058500	11/20/2018	Lennon forwards to Walsh and Kligerman Mower’s email that Cobb later responds to on 11/23/18 as summarized on the timeline. Mower’s email covers her complaints about Tran’s promotions and her being pre-selected for an SES position. Walsh replies, “Wow, she’s really out of line.”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0113	H56114-0034-021518	12/11/2018	Jansen emails Lennon, copy to Rosenholtz, Luer, and Fechter that he had a lengthy discussion with James McLaren (GC Office) and “[l]ong story short, he informed me that David Kligerman’s opinion allows for the investigation of Grantee personnel” but “[t]hat said, it looks like [they] can revert to the initial format with two possible options” - continue as is but with a contractor handling the NAC investigations, or evaluate each Grantee position for investigation under the Tier. He adds: “Needless to say, it bothers me a bit that this was the outcome of a conversation in which David was not privy; however, either way we can move forward with this issue.” He says that McLaren was asked to provide a written opinion, which will follow ASAP. Fechter responds with a file “attempt[ing] to include the option of having SEC do all the Federal staff while outsourcing grantee investigations.”	Awareness of and Responses to Security Program Lapses						
DK0114	H56114-0096-0003887	12/11/2018	Kligerman emails Governor Kornbluh regarding a meeting of the Firewall Group: “Per my message a bit ago, I am sorry. I feel as if this and the last time that you asked for information I wasn’t as responsive as I could and thus should have been. It shouldn’t happen again; I will endeavor to do better.”	Performance Issues						
DK0115	H56114-0006-018197	12/18/2018	In an email discussion about FY 2020 Appropriations, and being prepared to answer if staffers ask what the Agency plans to do with the extra \$4 million of the \$34.5 million that isn’t going to Internet Freedom now, Turner emails Tracy, Barkhamer, and Fritschie that he has asked Kligerman if he wants the explanation to include the language about the Agency being able to transfer to and merge with funds under the heading “International Broadcasting Surge Capacity Fund” for surge capacity, noting: “It’s not likely to get picked up by our appropriators but OMB did not explicitly say no to it.”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0116	H56114-0096-0111872	12/19/2018	In response to a request for feedback on a draft Enterprise Risk Profile circulated earlier, on 12/13/18, Kligerman writes to Cheng: “Can we get our response together. Let’s strike out the GC section with the argument that this is OBE. We’ve hired four new attorneys and a new contractor, including a deputy and associates and changed the office culture.” Cheng responds: “As a last resort, if that risk statement has to stay in some form, would suggest something generic like this: Legal guidance and counsel are critical to USAGM’s operations, especially in the highly-regulated areas of employment, civil rights, policy, Information technology, contracts, and security; there is a possibility, therefore, that some delays by OGC staff to internal requests because of low staffing, pending the hiring of additional personnel, may increase a risk of litigation and non-compliance which could cost the Agency valuable resources, including time, money, and brand equity.” She notes they would then also need to change the risk profile score for Likelihood from 4(high) to 2(low).	Performance Issues		X	X		X	
DK0117	H56114-0007-056567	1/8/2019	Walsh emails Kligerman, Powers, and Turner that they should find out more from Thatcher about the conference he wants to attend as it seems random and not very useful even if CENTCOM is paying for it. He notes: “We’ve had lots of issues with Gary traveling too much, which Shawn is very familiar with!” The chain continues with having Thatcher possibly attend with supervision.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0118	H56114-0007-055812	2/1/2019	Cullo emails Schuck her information for a transfer to the Agency, asking if he can expedite. Walsh responds to Schuck, copying Lansing and Lennon, saying: “Wow. Bold move by Diane. We can discuss Monday. + Marie”. Lennon responds to just Walsh: “Huh? Did we know this was in the works? As always, let me know what you need from me and my team.” Walsh responds on 2/4/19, copying Kligerman: “Yea very strange. We didn’t know it was in the works. I think it will be fine for multiple reasons, but we can discuss. John told Matt Schuck there’s no way she’s coming here under his watch, and Matt has gone back to Diane and told her that John’s position hasn’t changed. PPO hasn’t actually asked Matt to do anything, so this could just go away. But we’ll see. It would be really helpful though if someone in OMS or GC could pull together whatever regulations there are, I assume from OPM or OMB, regarding Schedule Cs and when agencies have to take them onboard, what flexibility do we have in accepting or rejecting names given to us, how does this work given that we’re run by a bipartisan Board, etc. (which is the same argument we teed up for OPM w/r/t SES positions, and OPM has seemed to side with us). I’ve only ever seen the regs for SES schedule Cs, not actually GS-level, which I think are more applicable here.”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0119	H56114-0007-027780	3/13/2019	In an email discussion about the VOA 365 roll-outs and avoiding Smith-Mundt violations and what funds to use, Fritschie says in the earlier 3/11/19 email that she is “uncomfortable” with using any funds besides rep funds to do events and asks Kligerman if there is legal language around the use of administrative funds that points to “other purposes”, as it would be helpful if criticized. Carew notes in response on 3/13/19 that “as US agencies go, we are at the lower end of the spectrum on events frequency and scope”. The email chain continues that day, including after a meeting with Lansing, and there’s a suggestion to do an overseas event. Walsh notes to Carew only that he is glad they met with Lansing and Lansing is “really frustrated with you know who.” Carew responds: “I know. I hate using John’s time like this.” She adds that with overseas events, they can partner with grantees so that the Agency may not need to spend anything. Tran and Turner are copied on the earlier discussion but not at the end of the discussion on using Lansing’s time and his being frustrated.	Performance Issues						
DK0120	H56114-0007-053941	3/19/2019	Walsh emails the Board of Governors, copying Lansing, Kligerman, Lennon, and others about an OIG report examining USAGM Governance. There are five recommendations related to internal processes as well as concerns about editorial independence due to NDAA changes.	Performance Issues						
DK0121	H56114-0096-0139824	3/25/2019	Cheng forwards to Kligerman the email she sent to Sulaka and Nweke a few months earlier, on 12/21/18, with OGC’s comments on the draft Enterprise Risk Profile circulated on 12/13/18.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0122	H56114-0096-0139825	3/25/2019	OGC’s comments on the 12/13/18 draft of the Enterprise Risk Profile circulated to RMC, which Cheng sent back on 12/21/19. The draft comments included this comment: “Please strike this risk statement as it is not accurate, even for FY2018. OGC has undergone significant changes, including new leadership, the addition of four new attorneys, and the opening of a further recruitment process to add four more attorneys...in recent months, the office has enhanced its client-centered practice by assigning specific points of contact for major offices within the agency and we continue to focus on client outreach. Accordingly, this risk statement does not reflect the current reality or the reality for 2018 and should be struck from this list, the risk profile, and any other related documents.”	Performance Issues		X	X		X	
DK0123	H56114-0007-054082	3/27/2019	Tran forwards to Walsh a letter from OPM regarding USAGM’s response to the OPM delegated examining unit evaluation, “Marta’s case is in the attached response.” Walsh replies that he is speaking with Lennon and Kligerman later and asks if Tran would like to join. Later, he tells Tran, “Just fyi – we fixed this”.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0124	H56114-0096-0123472	4/8/2019	Kazmi emails Powers about obstacles to VOA365 distribution, "...the biggest challenge is on the topic of registration...I think we need high level decision to press GC to find a solution..." Powers asks if the topic has been raised with Kligerman. Kazmi responds that he thinks Kligerman is the right person to ask. On 4/9/2019, Powers forwards the email string to Kligerman, asking for his advice. Kligerman forwards to others in OGC, "[Kazmi] seems to imply that we are a stumbling block, and a problem on this issue. If he is engaged, as he may be, in a smear campaign against our office, then I am going to elevate immediately." Others in OGC confirm that they have not been previously contacted about the issue. Kligerman emails the rest of the OGC again, copying the Powers/Kazmi email string into his email, with added emphasis, commenting "In the following places Mr. Kazmi implies that we have been non-responsive or are bureaucratic. Please review. If this is a misunderstanding, fine. If this is an intentional hit job, I will flag for the front office."	Performance Issues						
DK0125	H56114-0075-0006315	4/17/2019	Kligerman emails Cheng his draft of an email to Walsh regarding the Powers/Kazmi request for legal advice on VOA365 registration, which reads in part "can lillian and I discuss this with you immediately. There is a false narrative at the beginning of this chain started by Mehmood that seems to imply GC inflexibility...Lillian and I believe this is a smear campaign against OGC by [Kazmi]..."	Performance Issues						
DK0126	H56114-0075-0006327	4/18/2019	Cheng emails Walsh, with a copy to Kligerman, about VOA365 registration, raising a concern that "there is a false narrative started by [Kazmi] at various points in the email chain below that seems to imply GC inflexibility and lack of concern...any suggestion that GC is obstructing action or not taking the issue seriously is an unfair attack..." Walsh responds that he does not think OGC has been a problem on the issue.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0127	H56114-0075-0006805	5/13/2019	VOA employee Serchak forwards OGC Sade an email string regarding past VOA practices regarding paying employees' vacation expenses or allowing them to be on duty status while on vacation if they brought back stories; Serchak is concerned that the practice is impermissible and may be ongoing. On 5/17/2019, Sade forwards the email string to Kligerman. Apparently Sade also advised VOA against continuing the practice, because Kligerman emails Cheng that they should counsel Sade that before she provides a client with specific guidance addressing a long-standing agency practice, actual or alleged, she should check with Kligerman or Cheng, including before saying no to a practice. He says that they also need to speak to her about the agency's "philosophy" that "We need to work to help find solutions where they exist, and be understanding in instances where they do not." He notes that there are situations where employees can telework if supervisors approve, including while away.	Performance Issues		X	X		X	
DK0128	H56114-0096-0117502	5/17/2019	Office of Special Counsel attorney Elkin asks Kligerman for the SF-50 documenting VOA employee Dawi's appointment. He follows up again on May 23, to which Kligerman replies that he will ask Kotz. Elkin follows up again on June 6. Kligerman states he will pass on to Conaty but believed that Kotz was working on it.	Performance Issues						
DK0129	H56114-0096-0132406	7/1/2019	Ross requests OGC input on a draft response to questions from Senate Appropriations staff regarding Ullah's case. Kligerman responds that the draft should be revised to indicate that the existing safeguards worked.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0130	H56114-0001-058637	7/30/2019	Letter from ODNI to Lansing enclosing a draft report on ODNI’s 2018 re-assessment of USAGM’s personnel security program. The letter states that USGM has failed to address recommendations made in 2015, and must cease conducting national security background investigations and adjudications. The attached report notes that BBG/USAGM’s delegated authority to conduct investigations expired in 12/13/2012. On 8/2/2019, Tran forwards the letter and report to Jansen, Lennon, and Walsh. On 8/5/2019, Walsh forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses		X	X		X	
DK0131	H56114-0001-058636	8/5/2019	Walsh forwards the draft ODNI report to Kligerman, requesting that OGC participate in a meeting with security to discuss the report and grantee background investigations.	Awareness of and Responses to Security Program Lapses						
DK0132	H56114-0096-0142720	8/5/2019	Walsh forwards to Kligerman Jansen’s 8/2/2019 emails in response to the draft ODNI report, including the information that USAGM has already started having NBIB conduct its background investigations, and that Jansen has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators.	Awareness of and Responses to Security Program Lapses						
DK0133	H56114-0035-042527	8/12/2019	Tran emails Kligerman requesting his approval of the draft letter responding to ODNI’s personnel security program reassessment. Kligerman replies “I think we have a lot of comments. My team was looking at it. I wasn’t aware that the response was due tomorrow.” Tran emails OGC Conaty and McLaren (with a copy to Kligerman) the next day, requesting approval of the draft response to ODNI’s personnel security program reassessment.	Awareness of and Responses to Security Program Lapses						
DK0134	H56114-0096-0091812	8/13/2019	OGC McLaren emails Kligerman that OGC cannot approve the draft letter responding to ODNI’s personnel security program reassessment without seeing an updated corrective action plan.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
					T ⁵³	R ⁵⁴	D ⁵⁵	H ⁵⁶	J ⁵⁷	IT ⁵⁸
DK0135	H56114-0096-0143061	8/13/2019	OGC McLaren receives from Tran an updated corrective action plan responding to the ODNI’s personnel security program reassessment, and forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses						
DK0136	H56114-0087-093043	8/18/2019	VOA employee Baise emails VOA director Bennett about the process of creating updated Smith-Mundt guidance.” A working group created a draft in Fall 2017 which was given to OGC for review. “I have since gone back to GC over and over for their edits. We’ve had meetings, hallway conversations, email exchanges. When that was unsuccessful I talked to Jeff Trimble multiple times. It’s now been seven months since we completed our task, yet the agency remains without updated guidance on Smith-Mundt.” On 6/18/2018 Bennett responds asking for a current status. Baise replies that he received OGC edits two weeks ago, but had concerns about some of the changes made by OGC, to which they have not responded. The working group has been waiting for OGC’s response to a related draft document for eight months.	Performance Issues		X				
DK0137	H56114-0075-0020576	9/23/2019	Mower emails Cobb, copy to Kligerman, Lennon and Turner, in response to Cobb’s response on the status of Mower’s application for Chief Strategy Officer and says she (Mower) is assuming the Selecting/Hiring Official will follow best practices of impartiality and will follow recommendations on structured interviews. She notes the status of the four SES positions she applied to in the past and was referred for. She notes that Tran’s position was filled with no interview and that for another, she (Mower) was never interviewed but the job is still not filled.	Performance Issues						
DK0138	H56114-0006-037025	11/12/2019	Kligerman emails Turner that he does not see a problem with using no-year RFA funds for Liu’s OTF salary. On 11/13/2019, Turner forwards the email to Barkahamer, asking if he agrees. Barkahamer responds that the funds should come from OTF and there should be absolute transparency about the movement of funds between RFA and OTF.	Performance Issues			X		X	

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
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DK0139	H56114-0001-078211	12/30/2019	Lansing sends Turner and Lennon an email that all SES performance evaluations for the FY19 rating cycle have been completed. Lansing also states that he wants to give Tran a 120-day performance evaluation, but by that time, Turner will be her rating officer. Lansing states that given her outstanding performance, Tran should receive a bonus and pay raise. Turner acknowledges the email. A few months later, Tran emails Turner with Kligerman copied, stating that it appears that Turner will not honor Lansing’s evaluation and would proceed with his own evaluation, which she believed was unfair. Tran pointed out that all SES members received pay increases and bonuses, including one for Turner. Tran felt she was being singled out for being female, as Walsh received a pay increase and bonus as a new SES member. She also felt it was retaliation to an incident in which Turner blamed Walsh and Tran for confusing OCA staff with that of OCB.	Performance Issues						
DK0140	H56114-0009-095431	12/30/2019	Cheng emails Dupree with Kligerman and Cobb copied, stating that she had spoken to Cobb and she suggested to reach out to her if they wanted to start working on postings for senior level OGC slots that they have heard OPM has approved and sent to OMB for approval. Cobb forwards the email to Lennon, stating that her conversation with Cheng reinforced why she is leaving. She stated that Kligerman is pushing to have vacancy announcements ready to go when approvals come in, which they had not yet been by OPM/OMB. Cobb felt that this added to HR’s workload and didn’t make sense at the moment. Lennon stated “More to look forward to...arrgghh!”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0141	H56114-0075-0022204	12/30/2019	Tran emails Turner, copy to Kligerman, saying that she feels like after her 12/11/19 meeting with Turner, he “did not honor” Lansing’s request earlier in the chain, on 10/11/19, that his (Lansing’s) performance evaluation of Tran be incorporated into her 120-day performance evaluation even though Turner would be the rating officer by the 120-day mark, with Lansing’s departure. Lansing had recommended her for a pay increase and bonus set by him, which she says will now be forfeited. She reiterates points she says she made to Turner during the meeting, and notes that she feels like she is “being singled out” for being female and that this is “retaliation” for a specific event she describes. She asks that her evaluation as initiated by Lansing be given to Weinstein for signature, noting this would not be the first time a Chairman has signed off on SES evaluations.	Performance Issues						
DK0142	H56114-0001-032440	12/31/2019	OTF legal counsel Turner emails Kligerman and others with a revision of the OTF grant agreement and funding annex. On 1/2/2020, Barkhamer emails Kligerman (copying others including Turner, Walsh, and Powers) regarding his concerns with the proposed Return of Funds language, including that OTF has been pushing to change the language that is used with other grantees, and wants something looser than what 2 CFR 200 allows. He states that he is open to making some clarification to the Return of Funds language, but that if OTF wants to appeal to the CEO for looser language, it can. Walsh responds that Barkhamer’s proposal makes sense.	Performance Issues						
DK0143	H56114-0096-0054447	1/8/2020	Barkhamer emails Kligerman “I had no intention of crossing lines of communication or muddying the waters. In my Friday e-mail, I said I would reach out to the OTF group on Monday. I was out sick Monday, and catching up on Tuesday, so this slipped until this morning.” Kligerman replies “Sorry. I was being cranky this am. I am just sensitive about the sensitive relationship with grantee GCs.”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0144	H56114-0096-0107409	1/8/2020	Kligerman thanks Barkhamer for his concerns regarding OTF and states “let the attorneys speak offline. I will have another call with the attorneys.”	Performance Issues						
DK0145	H56114-0001-015873	1/9/2020	MBN GC Anne Noble emails Kligerman Jan. 9th asking for comments about edits to grant agreements. Noble follows up Jan. 21 noting no response or anything from Kligerman and the urgency of discussing the grant agreements since RFE/RL would not be able to pay EEs soon without some amendment. Kligerman responds Jan. 23 saying doing one page amendments until a final reconciliation of the prior grants can be made.	Performance Issues						
DK0146	H56114-0006-054070	1/21/2020	Turner asks Kligerman for a legal opinion on unspecified issues related to Presidential personnel assistant Buckham’s list of qualified political appointments for consideration at USAGM.	Performance Issues						
DK0147	H56114-0001-022910	2/24/2020	Liu emails Turner and Kligerman “We are looking to find the easiest and quickest way to transfer unobligated OTF funds from RFA to OTF so we can spend down the FY2019 money. As you know, at OTF we have \$3.6m-ish of FY2020 IF funds to use for new contracts but would like to use up the FY2019 funds before exhausting the FY2020 funds. Can this be done through a grantee to grantee transfer if both boards pass resolutions allowing for it?”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0148	H56114-0075-0027352	3/4/2020	Amanda Bennett from VOA takes issue with paper sent by Powers in that it “skips right past the firewall issues raised the establishment of a new or augmented journalistic content review operation outside the walls of the entities, and goes right to process and implementation questions.” powers disagrees that it skips past the firewall issue. Bennett states she is surprised that Powers was trying to get it “into the board book and circulated to the board BEFORE seeking feedback from the entity heads -- and that it was Grant who had to share it with” them and not Powers. Capus emails Kligerman, Walsh, and Tran and states that Bennett’s stance is outrageous and it needs a strong rebuke from Turner, or Powers will be thrown under the bus for doing what he was asked to do. Kligerman forwards to Turner and states that he disagrees with Powers’ characterization.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0149	H56114-0006-053062	3/9/2020	Turner shares with the governors a resume for Dan Hanlon, who was referred to USAGM by White House PPO. Kornbluh responds and asks “where are we on efforts to formalize the fire wall incl thru legislation and feasibility of having any new senior staff positions remain civil service positions?” Turner replies “we have been working to publish a reg relating to the firewall in the Federal Register. That, I believe, will be ready quite soon. We are also doing some normal housekeeping related to our SES register—which has never occurred that I’m aware—but will going forward delineate that the vast majority of our SES positions are “career reserved” (as they are in most every other agency). Of course, we also intend to comply with any OPM guidance on non-career appointees. Very broadly, there is a limitation of no more than 10% of SES government-wide being non-career. At any one particular agency, the non-career count could be up to 25% (but in order to approach 25%, the total number of non-career SES government-wide could not exceed 10% in the aggregate). We will have our SES register updated this month.” Kornbluh states that she wants to talk to Turner about it, and that she hoped that after the last board call they “would be presented with options to go beyond the fed register notice.”	Performance Issues						
DK0150	H56114-0006-053082	3/9/2020	USAGM employee Todd emails Turner attaching two memos regarding allegations of “harassment and abuse” by Powers and requests assignment outside of supervision of Powers. Turner forwards it to Kligerman.	Performance Issues						
DK0151	H56114-0006-053083	3/9/2020	Memo from Todd to Turner states that since being under the supervision of Powers and Neeper, she has had panic/asthma attacks that she had not experienced before.	Performance Issues						
DK0152	H56114-0006-053084	3/9/2020	Memo from psychologist treating USAGM employee Todd says that she is experiencing panic attacks as a result of unsubstantiated criticism by her supervisors.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁵²					
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DK0153	H56114-0096-0096297	3/17/2020	Walsh sends the CEOExecs and Lennon an article about OPM’s chief resigning and the WHL being elevated. Kligerman forwards it to Turner and states “Attorney-client Too funny. Almost there ... I can almost hear the neurons firing ... now he just I has to put two and two together ... and BAM ———like a bolt of lightning, the realization that rather than complain about being “kept in the dark” about such things, maybe next time he can just say “thank you.”“	Performance Issues						
DK0154	H56114-0096-0144397	4/14/2020	Lennon emails Walsh (with a copy to Kligerman) regarding RFE background investigations, relaying Jansen’s opinion that most RFE staff could be investigated at a Tier 1 level, and attaching an informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement.	Awareness of and Responses to Security Program Lapses						
DK0155	H56114-0096-0144398	4/14/2020	Informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement states that evaluation of position descriptions will likely lead to many journalist positions being designated national security sensitive, requiring a tiered investigation.	Awareness of and Responses to Security Program Lapses						
DK0156	H56114-0006-029030	4/29/2020	Tran emails Kligerman asking when the full-year FY2020 grant agreements for the grantees, which have been requested for an OIG inspection, will be cleared by OGC. Kligerman responds, “Each grantee has been issued a grant agreement. There are certain terms and conditions that we are looking to add at some point this fiscal year. Happy to discuss offline.” On 4/30/2020, Turner asks Barkhamer if the FY2020 grant agreements have in fact been issued, “Or are we still doing the CR type of grant agreement?” On 5/1/2020, Barkhamer replies, “Still CR type of grant agreement. Ball is in [Kligerman’s] court. He wants to address grantee comments/concerns.”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0157	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						
DK0158	H56114-0006-051219	5/11/2020	OIG emails Turner a hotline complaint alleging a conflict of interest in Kligerman’s concurrent service as acting Deputy Director and General Counsel. On 5/28/2020, Turner responds to OIG that he does not agree that there is an inherent conflict of interest, and that Kligerman has been able to maintain both positions effectively.	Performance Issues						
DK0159	H56114-0006-051220	5/11/2020	Complaint to the OIG hotline states that Kligerman’s concurrent service as General Counsel and Acting Deputy Director is a conflict of interest, and that Kligerman is a “vastly inept decision maker...”	Performance Issues						
DK0160	H56114-0009-079017	5/13/2020	OGC Cheng emails Jansen (copying Lennon and Kligerman) suggested revisions to his two draft memos on grantee background investigations.	Awareness of and Responses to Security Program Lapses						
DK0161	H56114-0009-079019	5/13/2020	Draft memo from Jansen regarding grantee background investigations questions the justifications given for USASGM’s 5 CFR 1400 waiver request.	Awareness of and Responses to Security Program Lapses						
DK0162	H56114-0075-0007009	5/21/2020	Turner emails Kligerman with the subject line “Things you owe for Board call tomorrow and ICC call Thur” requesting a response on draft documents being reviewed by Kligerman.	Performance Issues						
DK0163	H56114-0007-065588	6/3/2020	Capus messages Walsh and Tran, “That is dereliction if responsibility”.	Performance Issues						
DK0164	H56114-0007-065593	6/3/2020	Capus messages Walsh and Tran, “So he never cleaned up his typo-ridden document ... and so is not giving the Board the ability to consider it before they vote???”	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0165	H56114-0007-065596	6/3/2020	Capus messages Walsh and Tran, “It’s now 5:30p... has Dave sent out the Firewall info for the Board vote?!”	Performance Issues						
DK0166	H56114-0007-065679	6/3/2020	The USAGM Board holds a telephonic closed board meeting regarding a draft firewall regulation. In IM’s with Walsh, consultant Capus writes... “Dave has massively bungled this...This is a massive screw up by Dave...Wildly embarrassing...”	Performance Issues						
DK0167	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
DK0168	H56114-0007-065389	6/10/2020	Capus messages Walsh, “I have nothing to lose ... The world should know what he is doing”.	Performance Issues						
DK0169	H56114-0007-065391	6/10/2020	Capus messages Walsh, “His role in all of this is beyond reprehensible”.	Performance Issues						
DK0170	H56114-0007-065394	6/10/2020	Capus messages Walsh, “I may kill DK today”.	Performance Issues						
DK0171	H56114-0007-065216	6/16/2020	Capus messages Walsh, “So Dave and Grant’s grand plan to save themselves by putting Dan and Logan in place has now resulted in Dan and Logan being classified the same way as us”.	Performance Issues						

APPENDIX A – KLIGERMAN TIMELINE

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DK0172	H56114-0075-0007967	6/16/2020	Kligerman emails NARA asking whether publication of final rule 85 FR 36150 can be stopped. NARA employee Vincent replies that the rule “was effective on public inspection (June 11, 2020) but that effective date did not harden until publication on June 15, 2020. Your agency had until Noon on June 12, 2020 to withdraw it from public inspection, following the process laid out in the Document Drafting Handbook (DDH). So, you had just under 3 hours from the time I sent the email on Friday for your Federal Register liaison officer to email a signed withdrawal letter, on agency letterhead, to the email address specified in the DDH. Because all of the amendments in that rule are effective, your agency can no longer withdraw that rule. You must publish a new final rule amending the CFR. We cannot “undo” any changes to the CFR; we can only carry out specific amendatory instructions developed using the required format and language described in the DDH.”	Performance Issues						
DK0173	H56114-0006-015803	6/24/2020	Turner asks Kligerman for advice regarding “how to proceed with funding OCB’s operations despite Hill objections to moving money.”	Performance Issues						
DK0174	H56114-0096-0080706	7/17/2020	M. Namdarkhan (VP for legal, compliance, and risk USAGM) emails Kligerman OPM July 2020 report about recommendations needing to be remedied immediately and the “longstanding history of this agency ignoring or not fulfilling obligations and recommendations”. Kligerman response (no date on email, Metadata says 7-27-2020) states he had not received the report; his team doesn’t handle security clearances or suitability; the use of SF-86 for all positions; and wanting to classify “all positions at a minimum as ‘non-critical sensitive’“	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – KLIGERMAN TIMELINE

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DK0175	H56114-0096-0130414	7/17/2020	Kligerman emails himself what appears to be a draft response to Namdar’s email attaching the report from OPM from July 2020 on the Agency’s Suitability Program and asking questions. His draft response which is incomplete states that he has asked his deputy, Cheng, who is on extended sick leave due to surgery, saying she is more familiar with the issue. He also says: “But in short, prior leadership, wanted to ensure that all personnel were vetted at the highest possible level.”	Awareness of and Responses to Security Program Lapses						
DK0176	H56114-0006-034410	7/22/2020	OIG closes out a hotline request based on an email with Turner. It was an anonymous complaint concerning Kligerman and OTF. Email chain does not include the original complaint. Turner’s response to the complaint explains that the Agency has the authority to make grants beyond the recurring set of grantees and no specific authorizing language is needed for OTF, Kligerman doesn’t have exclusive responsibility for the initiative, support was endorsed by the Board, and other detail for why the OTF funding was supported.	Performance Issues						
DK0177	H56114-0032-022974	7/23/2020	Rosenholtz emails Lennon, Luer, Fechter and Jansen, suggesting creation of a timeline to show how they prepared Article X for the grant agreement, OGC “pulled those agreements back,” how RFE/RL “pushed back”, and that the CEO Office “requested info on additional flexibilities”. On 7/24/2020 Rosenholtz emails again attaching a draft timeline.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

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DK0178	H56114-0006-033162	7/24/2020	Kligerman emails Lennon, Jansen, and Walsh regarding the questions from Namdar on 7/17/20 about the OPM July 2020 Suitability Program report, saying that he was out most of the week on sick leave and then annual leave, and is on leave that day, but “leadership has made clear this is pressing” and Cheng, “the usual POC on this,” is out as well and he doesn’t want to bother her with it, and states: “[T]his is the first report that I have seen” and asks for the master report attached to it. Turner forwards the message to Layou, Mixson, Murchison, and Barkhamer, asking if they have information on the topic, and Barkhamer notes that he believes OPM’s reviews were one of the reasons personnel security was at the top of the FY19 USAGM Risk Profile developed by the RMC, and Nweke would have tracked remediation action plans, and it was taken off the FY20 profile since the agency was relieved of investigative responsibilities.	Awareness of and Responses to Security Program Lapses						
DK0179	H56114-0032-022975	7/24/2020	Timeline regarding OIG recommendation for a written background investigation protocol for grantees shows draft Article X of grant agreements under review from May 2018 to May 2020.	Awareness of and Responses to Security Program Lapses						
DK0180	H56114-0075-0025770	7/24/2020	In response to Kligerman’s request for information to help him answer Namdar’s questions concerning the OPM July 2020 Suitability Report, Rosenholtz emails Kligerman “a file with information [he] has on OGC’s involvement in matters related to the report.” Attached is a zip folder with documents. Rosenholtz notes that there used to be regular meetings on this topic between OMS, SEC, and OGC, most of which either Cheng or Kligerman attended. The file includes invites and agendas. He explains that Kligerman received a draft waiver letter for review and the file includes the history of that. The file also includes the latest email traffic on Article X of the grant agreements and background investigations for grantee staff, as well as the FY20 grant agreements that Rosenholtz notes were never countersigned or finalized.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

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DK0181	H56114-0075-0025877	7/24/2020	One of the many files attached to an email from Rosenholtz to Kligerman on 7/24/20 on OGC’s involvement with Suitability Program issues. This attachment is an email from Fechter to Kligerman, copy to Lennon, dated 3/12/18, asking for Kligerman’s review of a draft 5 CFR 1400 waiver request.	Awareness of and Responses to Security Program Lapses						
DK0182	H56114-0096-0139107	7/24/2020	Kligerman forwards to himself (both at his Agency account) several historic documents related to the Suitability Program.	Awareness of and Responses to Security Program Lapses						
DK0183	H56114-0096-0139112	7/24/2020	Attachment to Kligerman’s 7/24/2020 email to himself of historic materials related to the Suitability Program is an email sent 3/20/2017 from Boyd to Kligerman attaching materials related to security issues for a meeting the next day, saying she had worked primarily with Jansen who had already reviewed the documents. Kligerman had previously forwarded himself the email and attachments on 4/17/17.	Awareness of and Responses to Security Program Lapses						
DK0184	H56114-0096-0139117	7/24/2020	Kligerman re-forwards to himself a document attached to 4/17/17 email from Kligerman to himself. The document is a 12/19/2016 memo from Jansen to Lennon, through Lang, subject: “Reassessment of Agency Positions.”	Awareness of and Responses to Security Program Lapses						
DK0185	H56114-0096-0139118	7/24/2020	Document Kligerman forwards to himself on 7/24/20. It is an email chain ending 2/2/18, where Jansen emails Lennon on 2/1/18, that ODNI/OPM advised that they plan to conduct a review of the Agency’s processes in April 2018 and that he provided them with her contact info. She forwards this to Fechter on 2/2/18. It’s unclear how Kligerman received this.	Awareness of and Responses to Security Program Lapses						
DK0186	H56114-0096-0139119	7/24/2020	Document Kligerman forwards to himself on 7/24/20. It is an email chain from 11/13/18, forwarded from Cheng to Kligerman. It contains an explanation from Fechter to Cheng that day on what happened to the 1400 waiver request to OPM.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – KLIGERMAN TIMELINE

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DK0187	H56114-0096-0139121	7/24/2020	Kligerman re-forwards to himself a document attached to an 11/13/18 email to Kligerman, The document is a 4/6/2017 email from Fechter to ODNI/OPM requesting an extension to implement 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
DK0188	H56114-0096-0139124	7/24/2020	Kligerman re-forwards to himself a document attached to an 11/13/18 email to Kligerman. The document is a 4/11/2017 email from Fechter to OPM requesting an extension for implementation of 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
DK0189	H56114-0096-0056246	7/26/2020	Kligerman forwards to his personal email account an email he received at his Agency account two days earlier (7/24/20) from Namdar that she has learned that he is engaging with those outside the Agency without her approval and that he should not be communicating with anyone outside the Agency, including at other federal agencies, without her consent.	Performance Issues						X
DK0190	H56114-0075-0025910	7/27/2020	Cheng emails Kligerman her “take on the questions” Namdar emailed Kligerman on 7/17/20 that Kligerman sent to her on 7/24/20, concerning the July 2020 OPM Suitability Program report. Cheng says that she can’t access everything she’d like to consult on her email or shared drive, but “this is pretty much” her take. Her responses include, for example, the actions she believes her team took to remedy issues flagged in the report, including briefing Lansing in late 2018 or early 2019.	Awareness of and Responses to Security Program Lapses						
DK0191	H56114-0096-0056261	7/27/2020	Kligerman forwards to his personal email account an email he sent himself at his Agency account earlier that day that states that Cheng let him know that Namdar had reached out to Sade, a line attorney responsible for FOIA, without Kligerman’s knowledge, and that they have a call that day to talk about FOIA and Cheng asked McLaren to sit in on the call, and Sade knows to loop McLaren in.	Performance Issues						X

APPENDIX A – KLIGERMAN TIMELINE

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DK0192	H56114-0096-0080710	7/27/2020	Kligerman emails Cheng a draft responses to questions Namdar raised regarding the July 2020 OPM Suitability Program report.	Awareness of and Responses to Security Program Lapses						
DK0193	H56114-0096-0080711	7/27/2020	Draft responses to Namdar’s questions concerning the July 2020 OPM Suitability Program report states regarding OGC involvement in the 5 CFR 1400 issue, “Agency leadership, wishing to continue that longstanding practice from the USIA era, to vet persons using the more detailed SF-86 form, asked that we seek a waiver in 2018...Accordingly, we worked with Agency leadership in reviewing responses to OPM seeking to uphold our blanket determination to maintain our use of the SF-86.”	Awareness of and Responses to Security Program Lapses						
DK0194	H56114-0055-004416	7/30/2020	Luer messages Lennon saying that they should mention on the call that based on the ODNI report, OGC believes they should immediately cease adjudications for national security positions.	Awareness of and Responses to Security Program Lapses						
DK0195	H56114-0096-0086253	11/9/2020	Lennon emails Walsh and Cheng, attaching a draft response to the OPM draft report and Management Directives implementing the report. Walsh responds that he was speaking with Tran and a USAGM Board member asked for a security update at the following week’s Board meeting.	Awareness of and Responses to Security Program Lapses						

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Grant Turner Summary

Name: Grant Turner, Chief Financial Officer, Former Acting CEO

Summary of Basis for Investigative Leave:

Turner was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- His background investigation being performed when USAGM lacked proper authority (security clearance granted 6/20/18).
- Failure to remedy personnel and/or security concerns escalated to his attention and within the scope of his role.
- Various issues related to financial management of the Agency, including improper oversight of grantee organizations.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Turner's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Turner. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Turner's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Turner. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Turner is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

We are aware of concerns within USAGM relative to Turner and the personnel security issues currently under investigation more broadly within the agency. Our document review indicated Turner had awareness of issues with USAGM's handling of personnel security issues, but provided us limited insight into Turner's role with respect to the remediation of those issues. We recognize that this could be a reflection of limitations in our document review. Further, as noted above, USAGM has access to documents and information to which we are not privy, and which may speak more fully to Turner's role with respect to these issues.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Turner's:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Documents potentially relevant to consideration of Turner's reliability, discretion, judgment and use of information technology have been flagged in certain of the Timeline entries associated with Turner. Notably with respect to Turner, the timeline includes numerous examples of his forwarding potentially sensitive USAGM-related documents to or sending such documents from his personal e-mail account. Our document review found that beyond the examples identified in the timeline, Turner regularly sent USAGM documents and e-mails to his personal e-mail account, including OTF funding documents and grant agreements. This activity appears to have begun as early as 2016, but with most instances occurring in 2020. Such misuse of information technology is in violation of agency policies around e-mail use and document retention, could potentially implicate laws and regulations governing the maintenance of Federal records and is a basis to question Turner's reliability, trustworthiness, discretion and judgment. The Timeline provided at Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

Further, the performance issues outlined below are potentially relevant to consideration of Turner's reliability, discretion and judgement.

Performance Issues

Failure to Address OIG Audit Recommendations

The documents indicate a failure to remedy corrective measures in response to OIG reports. The ultimate responsibility for implementing certain corrective measures and ensuring compliance lay with Turner as CFO. The OIG issued numerous reports over time highlighting the need for improved oversight and financial controls with respect to USAGM's financial governance over its grantees. In October 2017, Turner received a draft BBG Performance and Accountability report which included OIG's annual statement for FY2017 regarding BBG's major management and performance challenges, including the following language:

Based on our oversight work performed this year and in the past, research, and independent judgment, OIG concludes, *as it did last year*, (emphasis added) that the following were the most important challenges that BBG faced in FY 2017:

- Information security and management
- Financial and property management
- Grants management ¹

Two of these three areas were squarely within Turner's purview. The report goes on to specify multiple areas of deficiency as well as their existing ramifications (e.g., misstatements in BBG's financial statements) and potential future ramifications (e.g., increased risk of waste, fraud and abuse of Federal funds).² When OIG issued its report for FY2019, OIG again identified the same three areas as the Agency's most important challenges, commenting that these issues "go to the core of USAGM's programs and operations and have been crucial challenges *for the past 5 years*" (emphasis added).³

In January of 2018, Turner received an email related to follow-up on an OIG audit of RFE/RL's after-employment benefits. Although most of the action items were assigned to USAGM's OMS (rather than OCFO), the larger, and more pervasive, issue was that there were still open compliance items four years after the issuance of the original report in 2014.⁴ Two months later, Kligerman commented to Turner and Lennon regarding the significance of OIG's feedback, "Marie, Grant: I've never seen the OIG say this before: 'OIG notes that based on the last response, **very little progress has been made on these recommendations. As a result, your next response should address completing action expeditiously. Further delays may be reported to Congress.**' (emphasis in original)."⁵ At least as of September of 2018, USAGM was still working on addressing the same report and outstanding issues.⁶

Also in January of 2018, OIG issued a report with several recommendations pertaining to the need for improved oversight of MBN, including a suggested review of more than \$6 million in unliquidated funds for potential de-obligation.⁷

¹ H56114-0045-003735

² H56114-0045-003735

³ H56114-0006-057102

⁴ H56114-0036-010469 and H56114-0069-015001

⁵ H56114-0069-014999

⁶ H56114-0096-0001652

⁷ H56114-0069-039903

In April of 2019, USAGM conducted a risk assessment in which inadequate grantee oversight, including in the area of finances, was noted as a high-risk area.⁸ A month later, OCFO developed a response plan to address the identified areas of risk;⁹ however, the fact that inadequate grantee oversight remained an issue at least 5 years after the OIG's audit of RFE/RL, noted above, highlights its persistent and pervasive nature, including under Turner's oversight.

Grantee Oversight Issues

Documents reviewed indicate that Turner did not have a sufficiently expansive view of his own role and responsibilities with respect to day-to-day grantee oversight. Other documents indicate that he was much more reactive than proactive in financial management, while still others reflect that Turner seemed unwilling to intervene and/or provide financial course correction.

For example, in a May 2018 email exchange among Turner, Matt Walsh, David Kligerman and Haroon Ullah regarding a drawdown request by Libby Liu for OTF funds, Walsh raised a broader question about how OTF operates, stating, "I think such an umbrella approach could be ok. . . . But it also raises a broader question about how OTF operates - we're talking about aprx \$6 million that they've barely explained how they plan to spend, or if they have we need to collect that info for John."¹⁰ When Kligerman noted that there were reporting requirements in place, Turner seemed to try to distance himself from the question and the associated responsibility, stating, "In OCFO we know very little about OTF's operations, but perhaps OIF folks know more."¹¹

In July 2018, when describing a question from Capitol Hill regarding FY2018 disbursements to OTF, Ellona Fritschie noted her discomfort at being brought into the loop after Liu had been "promised" funds but before necessary approvals were in place. Fritschie also commented, "Libby actually scoffed at the need to meet the deadline."¹² While Turner acknowledged that Liu (as well as CEO Lansing) should understand the Hill's sensitivity to any spending prior their approval, he then in the next email proposed a bridge funding measure utilizing disbursements from FY2017 carryover funds—a measure specifically designed to fly under the radar to avoid notifying the Hill.¹³

There are documents showing that in October 2018 Turner was aware of multiple significant and pervasive issues regarding RFE/RL's financial management, but he neither acknowledged his own ultimate responsibility for bringing RFE/RL into compliance nor indicated any intention of taking remedial steps toward that goal.¹⁴ Responding to RFE/RL comments relayed by Matt Walsh, Turner stated:

Yes, this is an example of financial management incompetence at RFE/RL. Granted their cost structure is likely inefficient from years of refusing to make reforms, but their current bloated structure is still easily affordable given their enormous carryover balances and the generous \$9.4M increase that Congress made to their base appropriation. We also shouldn't forget that they have \$3.5M in "non-BBG" funds sitting in a slush fund on the side, and they will accrue notable savings from updating their currency relief benefit from the 10-year old rate they have been improperly using. There are other places where

⁸ H56114-0006-003360

⁹ H56114-0006-058608

¹⁰ H56114-0002-017910

¹¹ H56114-0002-017910

¹² H56114-0043-026426

¹³ H56114-0043-026426

¹⁴ H56114-0007-060106

RFE/RL could unlock savings but they refuse to. The fact that they are behaving like they have a financial crisis is really clear evidence of the need to replace budget and grantee leadership at RFE/RL. This demonstrates that they cannot effectively carryout their mission because of poor fiscal stewardship (or that they are willing to simply pretend like they have a crisis to extort concessions from us or apply political pressure from the Board).

In March 2019, when notified by MBN's Kelley Sullivan about a proposed spend by RFE/RL for a service MBN obtains for free, Turner indicated no intention to intervene, or even discuss the subject with RFE/RL, to prevent a potential waste of funds.¹⁵ Sullivan noted, "This is so classic, I just had to share." Turner responds: "They are probably going to spend \$100K on this... Goodness." Sullivan added, that RFE/RL did provide a justification but indicated that she did not believe it has merit in the overall context. Instead, he like Sullivan seemed simply to write off this "classic" behavior by RFE/RL. Pending further research, it is unknown whether Turner followed up separately with RFE/RL on this issue.

In March 2019, while reviewing a wire service contracting cost allocation, Turner commented on VOA's lack of transparency,¹⁶ which as his comments elsewhere indicate, negatively affected other grantees without their involvement and consent.¹⁷ Although he indicated an intention to review resulting issues related to cost allocation, he did not indicate any plan to admonish VOA directly for their behavior or take any other proactive steps to prevent a recurrence of the same situation.

In August 2019, Liu asked Turner when the Global Mandarin grant amendment would be "done," noting that she had already begun hiring and spending the funds. Turner responded that the \$400K grant amendment required a reprogramming CN, which was still in clearance. While he did include a "frowny-face" emoticon in his response, he did not tell Liu that she needed to cease spending those funds until the CN cleared and the amendment was executed.¹⁸

¹⁵ H56114-0006-015063

¹⁶ H56114-0006-016174

¹⁷ H56114-0007-53595

¹⁸ H56114-0006-042473

APPENDIX A – TURNER TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁹					
					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0001	H56114-0045-003734	10/27/2017	Turner receives BBG’s draft FY2017 performance and accountability report for review.	Performance Issues						
GT0002	H56114-0045-003735	10/27/2017	Draft FY2017 BBG Performance and Accountability Report includes an OIG statement that “Financial management continues to be a challenge for BBG”, including a material weakness related to the validity of unliquidated obligations, deficient property management controls, and inadequate grant monitoring.	Performance Issues						
GT0003	H56114-0036-010469	1/18/2018	Andross emails Turner and others regarding open recommendations from OIG’s 2014 report on FRE/RL after-employment benefits. BBG’s 3/31/2017 response to OIG requires OCFO to perform a pay comparability study by the end of FY2017.	Performance Issues						
GT0004	H56114-0069-039902	2/1/2018	Andross emails Turner, Jansen and others about open OIG recommendations from an inspection of MBN. Three of the open recommendations require action by OCFO regarding de-obligation of funds, closure of expired grants, and inventory reconciliation. The fourth open recommendation, regarding the establishment of a protocol for grantee background investigations, requires action by OMS and OGC. On 2/2/2018, Fechter attaches Andross’s email to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses; Performance Issues						

¹⁹ No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

²⁰ Trustworthiness

²¹ Reliability

²² Discretion

²³ Honesty

²⁴ Judgment

²⁵ Use of Information Technology

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0005	H56114-0069-014999	3/19/2018	Kligerman emails Lennon and Turner recommending immediate action on an attached OIG report and draft response regarding an audit of RFE/RL after-employment benefits. “OIG is saying that enough is enough, and they have lost patience with what we have been reporting/promising/not promising for the last few years on this issue.”	Performance Issues		X	X		X	
GT0006	H56114-0069-015001	3/19/2018	Letter from OIG to Lansing regarding the status of recommendations from a 2014 OIG audit of RFE/RL after-employment benefits says “that based on the last response, very little progress has been made on these recommendations. As a result, your next response should address completing action expeditiously. Further delays may be reported to Congress.”	Performance Issues		X	X		X	
GT0007	H56114-0069-015016	3/19/2018	Draft response to 2014 OIG recommendations from an audit of RFE/RL after-employment benefits says that BBG has drafted a new grant monitoring SOP, but that the procedure is still under review and has not been issued.	Performance Issues						
GT0008	H56114-0002-017910	6/1/2018	Liu asks for assistance because the BBG Budget office is withholding funds pending a project by project list, which she states is not something OTF can provide due to its rolling submission process. In an email without Liu, Walsh brings up that it raises a broader question of how OTF operates, and how it has “barely explained how [it] plan[s] to spend.” Kligerman states “There are supposed to be reporting requirements including biannual or quarterly reports under the framework/governance document.” Turner states “In OCFO we know very little about OTF’s operations, but perhaps OIF folks know more.”	Performance Issues						
GT0009	H56114-0002-049278	6/19/2018	Tran has Ullah approve pay for Powers after Cobb finds a way to give him a higher step under the superior qualifications pay setting authority.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0010	H56114-0043-026426	7/18/2018	Liu emails Fritschie, copying Turner and others about a \$1 million drawdown for OTF. Fritschie responds to Turner, removing the other recipients and adding Walsh, that she does not think it best to do the drawdown without all appropriators' consent necessary. Walsh responds that he is worried because Lansing believes the funds are being transferred to OTF and he does not want Liu to disturb Lansing while Lansing is on vacation. Fritschie reiterates her concerns. Turner states that carryover funds are available and it can be reallocated to RFA immediately, but not the full \$1 million, because that would require notifications to OMB and Congress. Walsh forwards the email string to Ullah, who comments "Wow". Walsh replies, "Yea, and these types of emails are regular occurrences..."	Performance Issues						
GT0011	H56114-0007-063055	8/14/2018	Tran emails Walsh regarding Ullah's requested authorization to travel to Geneva for the Concordia Media Conference. She says: "Another travel for Haroon. Were you aware?" She notes that the trip is short and is costing the Agency a lot due to business class accommodation for a medical waiver and a non-refundable fare. She notes: "There was an issue early on with Senior Staff frequent travels (when Jeff T and Andrea M were on board). Rob worked with Grant and Renea to impose a policy that each office must remain within their travel budget." She asks how to handle. Walsh responds that that he didn't know of the trip and he thinks they need to tell Ullah that he needs to stay within OPR's travel budget and Walsh can talk to him. Walsh emails later that he told Ullah to go see Tran.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0012	H56114-0006-025675	8/21/2018	In response to what the next steps are to get \$3500 for the BBG Impact event, Filipkowski asks Turner whether they are “going to use these Data Sales funds and consider them Representation funds? That would exceed our Cap for Domestic uses.” Turner replies that was Kligerman’s solution. Filipkowski states “I don’t see where he states these would be classified as Rep funds. For any reporting purposes, if they are classified as Rep, we would have to report them that way. I still don’t understand why OGC objected to request through can “reprogramming” some of the Overseas Rep funds into the Domestic Rep funds for a one-time event. That would be the cleanest way and get the decision out of BBG’s hands.”	Performance Issues						
GT0013	H56114-0006-026111	8/21/2018	Carew emails Filipkowski, copying Turner and Walsh, to ask what the steps are to get the \$3500 for the BBG Impact Event. Filipkowski states “For events with Representational funds, we have to ensure that a majority of the attendees are not BBG’s Government employees and technically the majority should be non-Federal. For this event, this may not be the case, but this is a one-time, special event.” Walsh states that he agrees.	Performance Issues						
GT0014	H56114-0006-050333	8/30/2018	Walsh forwards SES memo to Turner. Turner forwards to Barkhamer stating that he is not sure this makes their case clearly enough.	Performance Issues						
GT0015	H56114-0002-005609	9/11/2018	Liu emails Turner, copy to Ullah and Walsh, that RFA incurred around \$10k of research-related expenses which she says they were promised would be reimbursed and they are now being told months after submitting documentation that the Agency would not be. She asks how they propose reimbursing. She notes too that Lansing and Ullah promised to reimburse RFA for her DG7 related travel and she assumes there needs to be a plan for that too.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0016	H56114-0007-061104	9/14/2018	Walsh’s notes regarding meetings with OMB and a follow-up meeting with Turner, say that OMB “is now threatening that if USAGM submits any SES selections to OPM’s QRB that OPM is going to conduct an HR audit of USAGM, implying retaliation of some sort and/or that we have incorrectly followed HR processes. Marie Lennon, who also was in this meeting, and John, Haroon, and me were very surprised and taken back by this. Marie asserted, and I agreed to the best of my knowledge, that USAGM follows all HR processes to the t....The following week either on Sept 11 or 12, Grant came to my office one day and closed my door. Said he wanted to talk about the SES positions. He said two main things: first, he said he thinks the agency should pull back on the two Dep Dir selections and instead create an agency SES development program as a way to fill SES jobs in a way that OPM would not be able to interfere with. He also said directly, and I was really taken aback by this, that me and Haroon are too young to fill SES positions. I pushed back on this assertion but ended the conversation pretty quickly because of how angry I was with his comment.”	Performance Issues			X		X	

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0017	H56114-0006-049643	9/26/2018	Ramos in Travel emails concerns about Kazmi’s upcoming travel to Thailand, Turkey and Bangladesh, noting Ullah is normally the approver of Kazmi’s travel. Turner asks questions about whether any portion of the trip is personal and notes that Walsh should also verify the nature of the travel given that Ullah is the supervisor. Brauner in Travel says that he has read through the materials and believes there is a significant amount of doubt whether the Bangladesh part of the trip is for USAGM business or simply personal. He notes that it isn’t his department’s responsibility to make sure each trip is within FTR guidelines and they do not question the purpose of a traveler’s itinerary and they assume the supervisor has full knowledge of the trip’s purpose when approving it. Turner confirms Brauner should check with Walsh.	Performance Issues						
GT0018	H56114-0006-021861	10/9/2018	Turner emails OIG employee Warffeli providing information about Ullah’s travel. On 10/10/2018, Warffeli says that she would like to speak to Tran or Walsh about it, and asks if she can be sure that they will not tell Ullah about the investigation. Turner replies that they are both discreet, but he is not sure Tran knows about the travel issue.	Performance Issues						
GT0019	H56114-0006-022560	10/10/2018	Ramos emails Turner and OIG employee Warffeli a list of trips taken by Ullah while at USGAM, and it shows no “Approver” for the trips before October 2018 (though other email traffic suggests his travel before that date was approved by various people, including Tran).	Performance Issues						
GT0020	H56114-0006-022302	10/12/2018	Turner emails Filipkowski and Jones, copy to Barkhamer, asking if all the offices have a set travel budget, noting that Walsh is trying to work with Tran “to define a more stringent travel policy” and wanted to know. On 10/15/2018, Filipkowski responds that there is no specific travel budget for any entity and “[t]hey can use what they feel is necessary.”	Performance Issues						

APPENDIX A – TURNER TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁹					
					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0021	H56114-0006-018197	12/18/2018	In an email discussion about FY 2020 Appropriations, and being prepared to answer if staffers ask what the Agency plans to do with the extra \$4 million of the \$34.5 million that isn't going to Internet Freedom now, Turner emails Tracy, Barkhamer, and Fritschie that he has asked Kligerman if he wants the explanation to include the language about the Agency being able to transfer to and merge with funds under the heading "International Broadcasting Surge Capacity Fund" for surge capacity, noting: "It's not likely to get picked up by our appropriators but OMB did not explicitly say no to it."	Performance Issues						
GT0022	H56114-0007-056567	1/8/2019	Walsh emails Kligerman, Powers, and Turner that they should find out more from Thatcher about the conference he wants to attend as it seems random and not very useful even if CENTCOM is paying for it. He notes: "We've had lots of issues with Gary traveling too much, which Shawn is very familiar with!" The chain continues with having Thatcher possibly attend with supervision.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0023	H56114-0007-027780	3/13/2019	In an email discussion about the VOA 365 roll-outs and avoiding Smith-Mundt violations and what funds to use, Fritschie says in the earlier 3/11/19 email that she is “uncomfortable” with using any funds besides rep funds to do events and asks Kligerman if there is legal language around the use of administrative funds that points to “other purposes”, as it would be helpful if criticized. Carew notes in response on 3/13/19 that “as US agencies go, we are at the lower end of the spectrum on events frequency and scope”. The email chain continues that day, including after a meeting with Lansing, and there’s a suggestion to do an overseas event. Walsh notes to Carew only that he is glad they met with Lansing and Lansing is “really frustrated with you know who.” Carew responds: “I know. I hate using John’s time like this.” She adds that with overseas events, they can partner with grantees so that the Agency may not need to spend anything. Tran and Turner are copied on the earlier discussion but not at the end of the discussion on using Lansing’s time and his being frustrated.	Performance Issues						
GT0024	H56114-0006-006347	3/18/2019	In a discussion about OPR’s budget with Powers, Turner in emailing with the budget team about OPR’s prior year budgets, states: “I know Haroon went on a spending spree for a while and added a lot of people and contractors. We should factor those people into the baseline as well.”	Performance Issues						
GT0025	H56114-0006-016174	3/19/2019	Turner emails MBN employee Sullivan about the wire service contract, saying that USAGM is working out the proper allocation method, which has been complicated by VOA’s lack of transparency.	Performance Issues						
GT0026	H56114-0006-005353	3/26/2019	USAGM accounting employee Mixson emails Turner, Barkhamer, and Filipkowski, regarding an FY2018 audit of RFE/RL, asking if it has been decided how the grantee will reimburse the agency for theft by an employee in Bosnia over the course of several years.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0027	H56114-0006-003359	4/8/2019	Barkhamer emails Nweke on behalf of Turner, attaching a risk scoring sheet requested by Nweke for the enterprise risk management profile.	Awareness of and Responses to Security Program Lapses						
GT0028	H56114-0006-003360	4/8/2019	Risk scoring sheet with Turner’s input rates the security office risks related to the loss of delegated authority as high likelihood and moderate impact.	Awareness of and Responses to Security Program Lapses						
GT0029	H56114-0006-057441	7/19/2019	Turner emails Rios in response to a question about the advantages of no-year funding, “if money was unspent at the end of the year, we could sweep it up and devote to a ceo priority (like funding a new global Mandarin strategy). We also lapse a little bit of money each year intentionally because we don’t want to over spend our appropriation. We aim for just a couple hundred thousand but some years in the past the agency has lapsed \$500K or more.”	Performance Issues			X		X	
GT0030	H56114-0075-0020576	9/23/2019	Mower emails Cobb, copy to Kligerman, Lennon and Turner, in response to Cobb’s response on the status of Mower’s application for Chief Strategy Officer and says she (Mower) is assuming the Selecting/Hiring Official will follow best practices of impartiality and will follow recommendations on structured interviews. She notes the status of the four SES positions she applied to in the past and was referred for. She notes that Tran’s position was filled with no interview and that for another, she (Mower) was never interviewed but the job is still not filled.	Performance Issues						
GT0031	H56114-0006-038424	10/3/2019	OMB employee Regen emails Turner asking follow-up questions to an OIG report related to grantee funding, including the OIG statement that that USAGM has not made a decision on \$6.2 million in funds that could be put to better use. On 10/7/2017, Regen follows up on her request. Turner forwards to Barkhamer, saying that he missed the original email.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0032	H56114-0006-037025	11/12/2019	Kligerman emails Turner that he does not see a problem with using no-year RFA funds for Liu's OTF salary. On 11/13/2019, Turner forwards the email to Barkhamer, asking if he agrees. Barkhamer responds that the funds should come from OTF and there should be absolute transparency about the movement of funds between RFA and OTF.	Performance Issues			X		X	
GT0033	H56114-0001-078211	12/30/2019	Lansing sends Turner and Lennon an email that all SES performance evaluations for the FY19 rating cycle have been completed. Lansing also states that he wants to give Tran a 120-day performance evaluation, but by that time, Turner will be her rating officer. Lansing states that given her outstanding performance, Tran should receive a bonus and pay raise. Turner acknowledges the email. A few months later, Tran emails Turner with Kligerman copied, stating that it appears that Turner will not honor Lansing's evaluation and would proceed with his own evaluation, which she believed was unfair. Tran pointed out that all SES members received pay increases and bonuses, including one for Turner. Tran felt she was being singled out for being female, as Walsh received a pay increase and bonus as a new SES member. She also felt it was retaliation to an incident in which Turner blamed Walsh and Tran for confusing OCA staff with that of OCB.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0034	H56114-0075-0022204	12/30/2019	Tran emails Turner, copy to Kligerman, saying that she feels like after her 12/11/19 meeting with Turner, he “did not honor” Lansing’s request earlier in the chain, on 10/11/19, that his (Lansing’s) performance evaluation of Tran be incorporated into her 120-day performance evaluation even though Turner would be the rating officer by the 120-day mark, with Lansing’s departure. Lansing had recommended her for a pay increase and bonus set by him, which she says will now be forfeited. She reiterates points she says she made to Turner during the meeting, and notes that she feels like she is “being singled out” for being female and that this is “retaliation” for a specific event she describes. She asks that her evaluation as initiated by Lansing be given to Weinstein for signature, noting this would not be the first time a Chairman has signed off on SES evaluations.	Performance Issues						
GT0035	H56114-0001-032440	12/31/2019	OTF legal counsel Turner emails Kligerman and others with a revision of the OTF grant agreement and funding annex. On 1/2/2020, Barkhamer emails Kligerman (copying others including Turner, Walsh, and Powers) regarding his concerns with the proposed Return of Funds language, including that OTF has been pushing to change the language that is used with other grantees, and wants something looser than what 2 CFR 200 allows. He states that he is open to making some clarification to the Return of Funds language, but that if OTF wants to appeal to the CEO for looser language, it can. Walsh responds that Barkhamer’s proposal makes sense.	Performance Issues						
GT0036	H56114-0006-061637	1/17/2020	Presidential personnel assistant Buckham emails Turner a list of qualified political appointments for consideration at USAGM. Turner forwards the list to Weinstein, who comments approvingly on the name proposed for Deputy Director.	Performance Issues						

APPENDIX A – TURNER TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁹					
					T ²⁰	R ²¹	D ²²	H ²³	J ²⁴	IT ²⁵
GT0037	H56114-0006-054070	1/21/2020	Turner asks Kligerman for a legal opinion on unspecified issues related to Presidential personnel assistant Buckham’s list of qualified political appointments for consideration at USAGM.	Performance Issues						
GT0038	H56114-0001-022910	2/24/2020	Liu emails Turner and Kligerman “We are looking to find the easiest and quickest way to transfer unobligated OTF funds from RFA to OTF so we can spend down the FY2019 money. As you know, at OTF we have \$3.6m-ish of FY2020 IF funds to use for new contracts but would like to use up the FY2019 funds before exhausting the FY2020 funds. Can this be done through a grantee to grantee transfer if both boards pass resolutions allowing for it?”	Performance Issues						
GT0039	H56114-0075-0027352	3/4/2020	Amanda Bennett from VOA takes issue with paper sent by Powers in that it “skips right past the firewall issues raised the establishment of a new or augmented journalistic content review operation outside the walls of the entities, and goes right to process and implementation questions.” powers disagrees that it skips past the firewall issue. Bennett states she is surprised that Powers was trying to get it “into the board book and circulated to the board BEFORE seeking feedback from the entity heads -- and that it was Grant who had to share it with” them and not Powers. Capus emails Kligerman, Walsh, and Tran and states that Bennett’s stance is outrageous and it needs a strong rebuke from Turner, or Powers will be thrown under the bus for doing what he was asked to do. Kligerman forwards to Turner and states that he disagrees with Powers’ characterization.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0040	H56114-0006-053062	3/9/2020	Turner shares with the governors a resume for Dan Hanlon, who was referred to USAGM by White House PPO. Kornbluh responds and asks “where are we on efforts to formalize the fire wall incl thru legislation and feasibility of having any new senior staff positions remain civil service positions?” Turner replies “we have been working to publish a reg relating to the firewall in the Federal Register. That, I believe, will be ready quite soon. We are also doing some normal housekeeping related to our SES register—which has never occurred that I’m aware—but will going forward delineate that the vast majority of our SES positions are “career reserved” (as they are in most every other agency). Of course, we also intend to comply with any OPM guidance on non-career appointees. Very broadly, there is a limitation of no more than 10% of SES government-wide being non-career. At any one particular agency, the non-career count could be up to 25% (but in order to approach 25%, the total number of non-career SES government-wide could not exceed 10% in the aggregate). We will have our SES register updated this month.” Kornbluh states that she wants to talk to Turner about it, and that she hoped that after the last board call they “would be presented with options to go beyond the fed register notice.”	Performance Issues						
GT0041	H56114-0006-053082	3/9/2020	USAGM employee Todd emails Turner attaching two memos regarding allegations of “harassment and abuse” by Powers and requests assignment outside of supervision of Powers. Turner forwards it to Kligerman.	Performance Issues						
GT0042	H56114-0006-053083	3/9/2020	Memo from Todd to Turner states that since being under the supervision of Powers and Neepor, she has had panic/asthma attacks that she had not experienced before.	Performance Issues						
GT0043	H56114-0006-053084	3/9/2020	Memo from psychologist treating USAGM employee Todd says that she is experiencing panic attacks as a result of unsubstantiated criticism by her supervisors.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0044	H56114-0006-053122	3/13/2020	Turner sends email to himself and to personal email stating “Note to file: I’m not sure why Marta believes I’m seeking a meeting with Senate Foreign Relations Committee at this time. It may have to do with concerns that PPO was considering firing our Board or “firewall” issues. This meeting seems unnecessary and Marta is oddly representing that I’m pursuing a meeting at the Senate. Her judgment has been poor recently in assessing the outcome of Hill meetings (such as the OCB briefings I’ve attended with her). I may need to reassign her to help ensure the agency is represented properly before key stakeholders.”	Performance Issues						X
GT0045	H56114-0096-0096297	3/17/2020	Walsh sends the CEOExecs and Lennon an article about OPM’s chief resigning and the WHL being elevated. Kligerman forwards it to Turner and states “Attorney-client Too funny. Almost there ... I can almost hear the neurons firing ... now he just I has to put two and two together ... and BAM —————like a bolt of lightning, the realization that rather than complain about being “kept in the dark” about such things, maybe next time he can just say “thank you.”“	Performance Issues						
GT0046	H56114-0006-052301	4/7/2020	OCEO executive assistant Cummings emails presentation material on Grantee Personnel Background Investigations and a document on Overview of Grantee Investigation Requirements to recipients including Turner, Lennon, and Jansen. Turner forwards it to his personal email.	Awareness of and Responses to Security Program Lapses; Performance Issues						
GT0047	H56114-0006-052302	4/7/2020	Presentation on Grantee Personnel Background Investigations outlines the criteria for tiered and non-tiered investigations of grantee personnel.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – TURNER TIMELINE

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GT0048	H56114-0006-029030	4/29/2020	Tran emails Kligerman asking when the full-year FY2020 grant agreements for the grantees, which have been requested for an OIG inspection, will be cleared by OGC. Kligerman responds, “Each grantee has been issued a grant agreement. There are certain terms and conditions that we are looking to add at some point this fiscal year. Happy to discuss offline.” On 4/30/2020, Turner asks Barkhamer if the FY2020 grant agreements have in fact been issued, “Or are we still doing the CR type of grant agreement?” On 5/1/2020, Barkhamer replies, “Still CR type of grant agreement. Ball is in [Kligerman’s] court. He wants to address grantee comments/concerns.”	Performance Issues						
GT0049	H56114-0006-027871	5/8/2020	Tran emails Turner draft Special Achievement Awards (\$2500 each) for employees Vazquez, Carew, Ross, and Barkhamer.	Performance Issues						
GT0050	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						
GT0051	H56114-0006-051219	5/11/2020	OIG emails Turner a hotline complaint alleging a conflict of interest in Kligerman’s concurrent service as acting Deputy Director and General Counsel. On 5/28/2020, Turner responds to OIG that he does not agree that there is an inherent conflict of interest, and that Kligerman has been able to maintain both positions effectively.	Performance Issues						
GT0052	H56114-0006-051220	5/11/2020	Complaint to the OIG hotline states that Kligerman’s concurrent service as General Counsel and Acting Deputy Director is a conflict of interest, and that Kligerman is a “vastly inept decision maker...”	Performance Issues						
GT0053	H56114-0006-051039	5/27/2020	Turner forwards to his personal email address documents sent by Tran for CEO clearance, including the USAGM enterprise risk profile report and global China proposal.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0054	H56114-0006-023585	6/5/2020	Turner, from his personal email, sends himself the updated Succession Plan, to his USAGM email address.	Performance Issues						X
GT0055	H56114-0006-049645	6/5/2020	Turner asks Lennon to process two special act awards for Tran and Walsh at \$2k a piece.	Performance Issues						
GT0056	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
GT0057	H56114-0007-065216	6/16/2020	Capus messages Walsh, “So Dave and Grant’s grand plan to save themselves by putting Dan and Logan in place has now resulted in Dan and Logan being classified the same way as us”.	Performance Issues						
GT0058	H56114-0006-017896	6/18/2020	Turner forwards email to his personal email address regarding Liu’s resignation and the possibility of OTF holding an emergency board meeting regarding her resignation.	Performance Issues						X
GT0059	H56114-0006-016563	6/20/2020	Turner forwards a 6/4/2020 email string with OTF president Cunningham about untoward behavior by USAGM employee Mower to his personal email addresses.	Performance Issues						X
GT0060	H56114-0006-015803	6/24/2020	Turner asks Kligerman for advice regarding “how to proceed with funding OCB’s operations despite Hill objections to moving money.”	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0061	H56114-0006-002206	6/29/2020	Turner sends email with affidavit from his personal email address to his USAGM address, but address the body of the email to Lillian.	Performance Issues						X
GT0062	H56114-0006-015003	6/30/2020	Turner forwards OTF documents in connection with litigation to his personal email address.	Performance Issues						X
GT0063	H56114-0006-054852	7/16/2020	Turner sends Namdarkhan an email regarding needing to move funds to ensure payroll and contracts are funded at OCB and that “we don’t want to commit an anti-deficiency act violation by spending money we don’t have.” Namdarkhan follows up with many questions and continually follows up throughout the next day with Turner for answers. Tuner only answers some questions and ultimately forwards the correspondences to his personal email account on 7/19/2020.	Performance Issues						
GT0064	H56114-0006-054962	7/17/2020	Turner emails Cullo that the agency has started moving funds to continue to meet payroll and other required expenses at OCB, and that the appropriators won’t like it but they were given the required notice.	Performance Issues						
GT0065	H56114-0006-054860	7/19/2020	Turner forwards to his personal email accounts an Agency email from two days earlier (7/17/20) concerning funding for the OTF Psiphon project/contract. Turner had emailed how important the project was to critical markets and that the Agency could not let it lapse. Namdar had responded that the OTF staff including the individual who started the email chain must coordinate their activities with the new Acting CEO Pack appointed for OTF, to ensure nothing falls through the cracks.	Performance Issues						X

APPENDIX A – TURNER TIMELINE

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GT0066	H56114-0006-054599	7/21/2020	Namdar emails Turner questions about the OTF FY 2020 Grant Agreement, requesting responses by COB. He responds, copying in Mendes: “that’s a lot of items. It will not be possible to get this by the end of today.” He says that he will speak with Mendes about timing and that he was adding him to the chain. Mendes responds just to Turner, saying to send Namdar whatever he can as soon as he can. Turner says he will try to. He adds that he just sent another email he doesn’t think Namdar will like, “a very unusual request for her to be the only connection to OTF. I think the agency will be putting itself at risk when undoubtedly OMB or the OIG or our auditors do a look back at all of this. We can’t abandon our oversight of the grantees and I don’t think the auditors will be kind to us in retrospect. We need to be on record expressing concerns about the path forward....There are lots of risks and liabilities here worth chatting about.” Mendes responds: “Understood. It is interesting though that they want to be a grantee when convenient but not a grantee when convenient.”	Performance Issues						
GT0067	H56114-0006-034410	7/22/2020	OIG closes out a hotline request based on an email with Turner. It was an anonymous complaint concerning Kligerman and OTF. Email chain does not include the original complaint. Turner’s response to the complaint explains that the Agency has the authority to make grants beyond the recurring set of grantees and no specific authorizing language is needed for OTF, Kligerman doesn’t have exclusive responsibility for the initiative, support was endorsed by the Board, and other detail for why the OTF funding was supported.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0068	H56114-0006-033162	7/24/2020	Kligerman emails Lennon, Jansen, and Walsh regarding the questions from Namdar on 7/17/20 about the OPM July 2020 Suitability Program report, saying that he was out most of the week on sick leave and then annual leave, and is on leave that day, but “leadership has made clear this is pressing” and Cheng, “the usual POC on this,” is out as well and he doesn’t want to bother her with it, and states: “[T]his is the first report that I have seen” and asks for the master report attached to it. Turner forwards the message to Layou, Mixson, Murchison, and Barkhamer, asking if they have information on the topic, and Barkhamer notes that he believes OPM’s reviews were one of the reasons personnel security was at the top of the FY19 USAGM Risk Profile developed by the RMC, and Nweke would have tracked remediation action plans, and it was taken off the FY20 profile since the agency was relieved of investigative responsibilities.	Awareness of and Responses to Security Program Lapses						
GT0069	H56114-0006-053741	7/24/2020	Turner forwards to his personal email account an email exchange with Layou about information needed to respond to Namdar’s questions on 7/21/20 concerning the OTF FY 2020 Grant Agreement. The forward includes the financial plan, which was an attachment, as well as substantive information.	Performance Issues						X
GT0070	H56114-0006-053762	7/24/2020	Turner forwards to his personal email account the July 2020 OPM Suitability Program report.	Awareness of and Responses to Security Program Lapses						X

APPENDIX A – TURNER TIMELINE

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GT0071	H56114-0006-052178	8/3/2020	Turner emails Barkhamer and Layou regarding a letter from OTF about withheld funding. He asks them to have Murchison do a separate transfer package for RFA balances, even though they have been passed to the accountants for review. He indicates there is very little risk since they can rebalance amounts between RFA and OTF using future grant monies. Barkhamer responds that back in December 2019, Kligerman, Liu, Patrick at RFA and Murchison had a discussion about how to transfer the OTF balances at RFA since it was not as easy as “cutting a check.” Turner responds that he doesn’t know that that he wants to be on record that they are ok with transferring and then they can work out the mechanics.	Performance Issues						
GT0072	H56114-0006-052285	8/3/2020	Turner forwards the attached letter from OTF regarding the withholding of funds to his personal email account.	Performance Issues						
GT0073	H56114-0006-052286	8/3/2020	Letter from OTF Board to Pack regarding withholding of \$20 million on Congress-appropriated funds.	Performance Issues						

APPENDIX A – TURNER TIMELINE

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GT0074	H56114-0006-051450	8/5/2020	Turner emails Barkhamer and Layou regarding grant package for OTF July funding that he does not want to create a cash flow crisis for OTF by “being too strict on the implementation of the audits.” He wants to keep the grant package simple so it gets through quickly - they can move money upfront and if the auditors identify errors then can clean it up afterwards. “I told Andre we were ready to move the money from RFA’s books to OTF’s books and Mora stepped in and said “no don’t do that”...I’m going to tell Andre that OTF is using current year money to pay for contracts that have already moved over to OTF, and explain why we need to transfer the funds so they don’t starve current operations. He will likely share that with Mora and they can all decide, but I’m sure this will end up in the lawsuit so it could get very messy. I don’t see any inordinate risk in moving the money now since we can always rebalance later and make any corrections.”	Performance Issues			X		X	

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Marie Lennon Summary

Name: Marie Lennon, Director of Office Management Services

Summary of Basis for Investigative Leave:

Lennon was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- Her background investigation being performed when USAGM lacked proper authority (security clearance granted 12/20/13).
- Failure to remedy personnel and security concerns escalated to her attention and within the scope of her role.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Lennon's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Lennon. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Lennon's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Lennon. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Lennon is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

Personnel Security Mismanagement

The documents indicate that as early as spring 2011, Marie Lennon knew that there was a backlog on background investigations and that Personnel Security was understaffed. In May 2011, Ina Buckley sent a report to Lennon, raising those issues.¹ Buckley cautioned that the Agency ran the risk of losing its delegated authority if there was no improvement in the timeliness of background investigations. Employees continued to request additional needed resources throughout the years. For example, in November 2015, Frederick Lang emailed Lennon regarding a global security briefing for the Board, where he noted that his staff was overloaded with background investigations and the increased Federal Investigative Standards requirements would be exhausting.² In August 2017, Andrew Jansen emailed Angela McCain and Chris Luer requesting funding for background investigation personnel and software.³ He noted that the requests had been discussed with Lang and Lennon and that she had recommended they make these requests ASAP.⁴

Notably, on August 11, 2017, Jansen emailed Lang discussing the lack of SEC resources.⁵ He stated, “Sorry about this issue, but as you know, I wasn’t joking with Marie about the backlog and bottleneck of cases requiring investigation and my time for review, time that I am devoid of based on other assigned duties. I can only scream help in one language, apparently a language not understood by senior management.”⁶ Jansen also said that he had “run out of time and patience when it comes to SEC being a dumping ground for ineffective management.”⁷ Lang responded: “I know you have been upfront with Lennon on the manpower—not sure how to emphasize this other than to ask her if we can go direct with Lansing.”⁸ In March 2018, Jansen met with Lennon to discuss the extensive security investigation backlog.⁹ Lennon responded by asking how many people he needed.¹⁰ Jansen emailed Lang describing this meeting, and Lang responded: “As for Ms Lennon, I hope she remembers her previous inaction and ignorance when the evaluation team provides their comments on SEC being extremely undermanned – But experience has taught me that the 3rd floor could care less and even a scathing report from ODNI wouldn’t mean anything to 3300”¹¹

In October 2018, after the 2018 OPM report was issued, Nicholas Fechter circulated an action plan.¹² In discussing that action plan, Jansen told Lennon that providing proper staffing for Security is the only way to make the process work.¹³ Luer separately responded to Lennon, saying that no additional staff will be hired until delegated authority is returned.¹⁴ Lennon then asked Jansen whether he thought anyone in the front office would approve hiring investigators based on this report.¹⁵ Jansen responded: “Hiring is part of the cure. If they don’t understand how that fits into this issue, I will explain it tomorrow. I believe Matt will be at the meeting to share SEC’s explanation and needs with the CEO. As I stated earlier, if

¹ H56114-0077-091440.

² H56114-0071-021887.

³ H56114-0077-051524.

⁴ *Id.*

⁵ H56114-0077-069626.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ H56114-0077-046066.

¹⁰ *Id.*

¹¹ *Id.*

¹² H56114-0077-009026.

¹³ *Id.*

¹⁴ H56114-0034-009193.

¹⁵ H56114-0034-022952.

personnel are not forthcoming the agency needs to send operational responsibility for investigative efforts to OPM. That said, no one wants that to happen and therefore I believe that they'll take the request seriously. Moreover, this SNAP report is a wake up call that tells the agency OPM/ODNI is no longer accepting noncompliance while at the same time declaring their expectation that our program will be taken seriously by USAGM, which includes proper staffing. Bottom line, we can't be timely without a staff."¹⁶

In November 2018, one of the Board members requested a security update. Jansen prepared a draft presentation for Lennon's review that included a section on Personnel Security and the OPM/ODNI draft report.¹⁷ Lennon deleted that entire section with the comment that they should take the lead from John Lansing on how much he wants to go into the OPM audit.¹⁸ Lennon forwarded the revised talking points to Fechter, who responded: "Suspiciously, there's nothing under Personnel Security ;)."¹⁹

Loss of Delegated Authority

The documents show that Lennon received notice that the Agency's delegated authority had expired in 2015, when OPM sent a letter to her attaching the draft OPM/ODNI report. The report stated: "During the course of our review, we determined BBG is operating without the proper delegated authority...BBG has been operating without the proper delegated authority since December 2012."²⁰ In July/August 2017, when looking into a different issue, Jansen discovered that the MOU had expired.²¹ According to him, he reported this to Lennon.²² The documents reviewed have not shown updates on this issue until May 2018 when Lennon emailed David Kligerman, attaching a draft letter to OPM to start the process of re-formalizing the MOU for delegated authority.²³ On June 20, 2018, Jansen emailed Lennon, noting, "OGC must push our letter for delegated authority. I know that some believe that this is a non-issue; however, not having that authority may limit my ability to deal with OPM directly. Additionally, it would be very helpful if the process to reattain our delegated authority was in process before we receive the initial SNAP inspection results which will note the issue and demand an immediate remedy."²⁴ Lennon told him to contact Kligerman to discuss, and to keep her informed.²⁵ Jansen continued to attempt to follow-up with Kligerman. In October 2018, Lillian Cheng (OGC) sent her revision to the draft letters.²⁶ By that point, OPM's report had already come out suspending the Agency's delegated authority.²⁷

Personnel Security – 5 CFR 1400 Implementation

Documents identified in our review indicate that Lennon resisted implementing the personnel security requirements of 5 CFR 1400, and instead pushed for a waiver that caused the Agency to delay assessments under the Position Designation System (PDS). This appears to have caused employees to receive background investigations at the wrong levels, and to have delayed the re-evaluation of grantees as well, raising concerns about foreign national personnel receiving higher clearance than may have been appropriate.

¹⁶ *Id.*

¹⁷ H56114-0034-023134.

¹⁸ H56114-0034-023135.

¹⁹ H56114-0034-011019.

²⁰ H56114-0077-062343.

²¹ H56114-0077-051021.

²² H56114-0077-051524.

²³ H56114-0069-013793.

²⁴ H56114-0077-066838.

²⁵ *Id.*

²⁶ H56114-0096-0099375.

²⁷ H56114-0096-0099376.

The documents indicate that from a personnel security perspective, Lennon had a key role to play in implementation of 5 CFR 1400, which was enacted on June 5, 2015 and required federal agencies to reassess all assigned positions for sensitivity and risk using the PDS. Agencies were given a two-year period to complete this re-assessment, by June 2017. Lennon was made aware of this requirement at least as early as September 17, 2015, when she received a letter from OPM with the draft 2015 OPM/ODNI audit report.²⁸ One of the noted deficiencies was the Agency's failure to properly classify the position sensitivity of each position within the Agency.²⁹ There was a warning in the report that failure to correct the deficiencies may result in the revocation of delegated investigative authority.³⁰ On September 23, 2015, Lennon emailed John Welch in response to the report, inquiring about the referenced Position Designation Tool ("PDT").³¹ Welch reviewed the tool and noted that its application may not support classifying all Agency positions as sensitive.³² He suggested having a small group revisit why all the positions are classified as sensitive and review the criteria.³³

In November 2016, the Agency Security Working Group (David Kligerman, Frederick Lang, Andrew Jansen, Piero Ciancio, Marie Lennon and Nicholas Fechter) met to discuss, among other items, how to handle personnel security for grantees.³⁴ Security was to create a plan for how to use the Agency designations as a model for the grantee investigations. According to the notes of the meeting, they discussed the determination made in the past by leadership that all Federal positions within the Agency would be classified under a blanket category of "non-critical sensitive."³⁵ As a result of the new security regulations for using the PDS, that blanket designation had come into question. Also discussed was that they needed to review all the position sensitivity designations in the Agency and that they had less than one year to comply with this regulation.³⁶ Lennon was tasked with talking to HR about resources to review all Agency positions and developing a plan and timeline for the project.³⁷ During the same time period, Lennon and Lang emailed about "critical" security issues and noted that the use of the PDT was identified in the August 2015 ODNI/OPM Audit, which was tentatively scheduled again for August 2017.³⁸

On December 19, 2016, Jansen sent a memo to Lennon detailing the requirements of 5 CFR 1400 and referencing the 2015 OPM/ODNI report previously discussed.³⁹ In that memo, Jansen noted that the Agency had taken the position that it had received authorization from OPM to classify all positions as sensitive, but that there was no evidence of such an agreement.⁴⁰ Jansen stated that the Agency could no longer self-proclaim a minimum position sensitivity for all positions and that all positions must be assessed using the PDT within 2 years.⁴¹ He indicated that management and OHR were notified in 2015 and again in early 2016, and that OGC had no objection.⁴² The next step was for the Office of the CEO to be notified and to authorize OHR to initiate the assessment process.⁴³ However, if the process was further delayed, the

²⁸ H56114-0077-062343.

²⁹ *Id.*

³⁰ *Id.*

³¹ H56114-0071-057548.

³² *Id.*

³³ *Id.*

³⁴ H56114-0070-007849.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ H56114-0070-039064.

³⁹ H56114-0070-002511.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

Agency must request an extension.⁴⁴ In January 2017, Fechter and Lennon worked on revising the memo so that it could be sent to Lansing. According to Lennon's comments on the document, it appears Lansing had no knowledge of this issue at the time.⁴⁵

In April 2017, Fechter sent an email to OPM/ODNI, copying Lennon, requesting an extension on fully implementing 5 CFR 1400.⁴⁶ He stated: "the Agency has been working to become fully compliant with the regulation" and "Full implementation of 5 CFR 1400 is and will remain a priority for the Agency"⁴⁷ The documents do not indicate that Agency had started the re-assessment process at that time. In fact, in October 2017, Lennon, Kligerman, Fechter and Jansen had a meeting to discuss whether they should recommend pushing for a waiver or using the PDT.⁴⁸

In February 2018, the Agency received notice that OPM planned to review its security and suitability program in April.⁴⁹ Fechter emailed Kligerman, copying Lennon, asking for an update on the 5 CFR 1400 issue.⁵⁰ Fechter emailed Lennon raising the waiver issue, and stated: "I can reach out to Drew, but Drew isn't inclined to play ball on this strategy, he clearly wants to fully comply with 1400."⁵¹ Fechter then sent Lennon a draft extension request.⁵² On March 15, 2018, Fechter sent Kligerman the draft extension and waiver requests, but he did not reply with comments until April 11, 2018.⁵³ In response to Kligerman's comments, Fechter emailed Jansen and Lennon, suggesting that they run each position through the PDT but not tell ODNI they are going to do it.⁵⁴ On May 8, 2018, Lansing signed the waiver request.⁵⁵ Jeff Trimble said that he discussed it with Lennon, and they supported the request since it continues the status quo and changes could create problems.⁵⁶

Later in 2018, the Agency drafted a response to the OPM's recommendations regarding position designation, which draft response stated that the Agency expected to complete PDR for all positions by February 1, 2019.⁵⁷ Fechter forwarded the prior request for an extension to Lennon and stated: "Please note, we never did author an action plan for our full compliance to 1400 because we never intended to deviate from the status quo."⁵⁸ In the final response to OPM, there was additional language stating that while moving forward to comply, the Agency reiterates the waiver request.⁵⁹ The documents reviewed indicate that sometime in 2019 the Agency began the process of position designation—a process that should have started in 2015.⁶⁰

⁴⁴ *Id.*

⁴⁵ H56114-0070-002346.

⁴⁶ H56114-0034-021488.

⁴⁷ H56114-0034-021491.

⁴⁸ H56114-0010-008579.

⁴⁹ H56114-0096-0139118.

⁵⁰ H56114-0069-038678.

⁵¹ H56114-0069-034428.

⁵² H56114-0069-034564.

⁵³ H56114-0069-029741; H56114-0069-028487.

⁵⁴ H56114-0069-028277.

⁵⁵ H56114-0069-014109.

⁵⁶ H56114-0069-014120.

⁵⁷ H56114-0077-009027.

⁵⁸ H56114-0034-011937.

⁵⁹ H56114-0034-023284.

⁶⁰ H56114-0009-056532; H56114-0007-014081.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Lennon's:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Documents potentially relevant to consideration of Lennon's reliability, discretion, judgment and honesty have been flagged in certain of the Timeline entries associated with Lennon. Further, the performance issues outlined below are potentially relevant to consideration of Lennon's reliability. The Timeline provided at Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

Performance Issues

Human Resource Issues

There are documents indicating that Lennon mishandled HR functions, which was under her direct control. There are examples of issues being raised to her attention starting in 2016 and continuing through 2020, and it does not appear based on the documents reviewed that Lennon took steps to remedy the overall problems of the department.⁶¹ Some of the issues include: problems with the payroll system, not accurately capturing supervisor information, lag in responding to harassment complaints, and mishandling the posting of positions. For example, an email from Shennoa McDay to Lennon complains that HR is not providing reports as requested by the Office of Civil Rights.⁶² The email states, "I understand HR may be understaffed, but my staff is telling me that either they are getting long delays in responding and the information provided is incomplete, they cannot access the information, or they are provided with generic information and left to figure out what they need."⁶³ There was a claim of harassment and hostile work environment filed against the HR director, Carol Cobb. Although the investigation found insufficient evidence to support the claims, Cobb recognized there was "room for improvement."⁶⁴

In a number of cases, concerns have been raised about individuals being "pre-selected" for certain career positions, contrary to regulatory requirements for posting and hiring into such jobs. For example, Joan Mower made allegations about Oanh Tran being pre-selected for her position, and improperly listed at SES level.⁶⁵ Cobb responded to Lennon on this issue that "If Joan Mower follows through with contacting

⁶¹ H56114-0071-057490; H56114-0068-009359; H56114-0065-016671.

⁶² H56114-0009-046538.

⁶³ *Id.*

⁶⁴ H56114-0007-059133.

⁶⁵ H56114-0034-021958.

the OIG...I'm afraid it will look pretty bad for John Lansing and the CEO's office. HR did the best we could in classifying the position at the SES level, and we did it because the position is located in the CEO's office and John Lansing wanted this to be an SES position. But the position is a very weak SES at best. If OPM were to come in and do its own classification, my fear is that the true grade of the position will be much lower than the SES level."⁶⁶ Mower also alleged that Powers was pre-selected for his position and was hired at or promoted to an inappropriate level.⁶⁷

The documents indicate that there were government reports recommending improvements to the HR process, demonstrating issues under her oversight and with her remediation of known issues. For example, in January 2018, OIG issued its draft report on the audit of RFE/RL's after-employment benefits.⁶⁸ Kligerman emailed Lennon and Turner, remarking "I've never seen the OIG say this before: 'OIG notes that based on the last response, very little progress has been made on these recommendations. As a result, your next response should address completing action expeditiously. Further delays may be reported to Congress.' ... At this point, the OIG is saying that enough is enough, and they have lost patience with what we have been reporting/promising/not promising for the last few years on this issue."⁶⁹ Similarly, on September 17, 2018, the Agency received a Delegated Examining Evaluation Report, with eleven required actions and seventeen recommendations for the HR department related to job analysis and documentation, evaluation of qualifications, veteran consideration, HR staff training, and record keeping.⁷⁰ The HR Weekly report stated: "We received the formal results of OPM's audit and it is not good. We must provide a written response within 60 business days, and it will involve a lot of work to resolve the issues that were cited by OPM as deficiencies. Carroll Cobb will take the lead in overseeing the response and correcting the problems."⁷¹ Further, the draft 2019 OIG inspection report noted that senior managers did not enforce timely completion of performance reviews, as required by law.⁷²

In June 2020, Lennon put together a list of the Agency's hiring pipeline to share with Michael Pack and his team.⁷³ She emailed the list to Walsh and said that there were some people she wanted to remove from the list, stating:

I can explain my rationale and it may look self-serving, but many of these are internal moves from one position to another with higher promotion potential. That is the case with Lillian, James and Silvia Maull. Eric Johnson is our new PMF who will be working with the front office team and given our workload, we desperately need him. As you know, if we lose him now, he'll move on to greener pastures. And of course, Paulette Williams is the new hire for HR to work exclusively with OCB in Miami. The last item which is not on the list is the last minute accretion promotion request we received from Oanh for Armanda to a GS-13. I don't know how you feel about this one, but Grant approved it prior to Mr. Pack's appointment and we could make it happen with the next pay period if you would like. With regard to the J-1 visa hires, these recruitment actions are so complex and long that to stop any of them at this point would be a disaster to VOA. It will likely take many more weeks/months before we actually are able to on-board the candidates, so I

⁶⁶ Id.

⁶⁷ H56114-0009-010418.

⁶⁸ H56114-0045-001537.

⁶⁹ H56114-0069-014999.

⁷⁰ H56114-0007-035447.

⁷¹ H56114-0065-019810.

⁷² H56114-0009-026391.

⁷³ H56114-0007-042295.

would argue that we simply allow them to continue and not disrupt the progress made thus far.⁷⁴

The history of concerns regarding promotion practices within the agency, and the apparent timing of trying to complete certain of these actions before Pack was made aware of them, raises a flag as to the propriety of Lennon's request and Walsh's potential involvement in it.

⁷⁴ *Id.*

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0001	H56114-0077-091439	6/7/2011	Security director Lawrence emails other security personnel regarding the report from a review of the IBB security program, “I would think that we need to begin mapping out what we need in a formal request, I am sure [Lennon] will not come back and give us bodies/funding and will want some logical input from us as to where we will need the resources and at what magnitude.” Lagerberg attaches the email to his 6/7/2011 email to Jansen.	Awareness of and Responses to Security Program Lapses						
ML0002	H56114-0071-059270	1/2/2013	Havens emails Lennon with a question about travel arrangements for a member of the board. On 1/3/013, Lennon responds that she will find out the answer and let Havens know. On 1/11/2013, Havens asks if there is a response to that question as well as other issues she has raised with Lennon. “It has been a couple of weeks and I thought maybe some kind of follow up for at least one of the things we’ve discussed would have surfaced. It is truly frustrating to be ignored. You can understand why moral is so low.”	Performance Issues						
ML0003	H56114-0071-053325	9/10/2015	Cabral to Lennon stating that Kligerman has had policy/task since June 15th and no response; missed deadlines	Performance Issues		X			X	

⁷⁵ No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

⁷⁶ Trustworthiness

⁷⁷ Reliability

⁷⁸ Discretion

⁷⁹ Honesty

⁸⁰ Judgment

⁸¹ Use of Information Technology

APPENDIX A – LENNON TIMELINE

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ML0004	H56114-0077-062343	9/17/2015	Letter from OPM/ODNI to Lennon and attached draft report states that “During the course of our review, we determined BBG is operating without the proper delegated authority. The 2010 MOU for Delegated Investigative Authority was valid for two years, and expired in December, 2012.” The report makes 25 recommendations, requiring changes to BBG’s personnel security procedures.	Awareness of and Responses to Security Program Lapses						
ML0005	H56114-0071-057548	9/30/2015	Welch tested PDT for Lennon. His response says “provides a reasonable means for making consistent determinations, but “application of the tool may not support classifying all Agency positions as sensitive.” He also notes, that if there is a sound reason to keep classifying all positions as sensitive (despite cost and delays), he/the team could create rationales to get the program to support those determinations.	Awareness of and Responses to Security Program Lapses						
ML0006	H56114-0070-007721	10/13/2015	Lang emails Lennon about OPM’s draft report, which includes 7 recommendations specific to BBG HR. On 3/29/17, Lennon forwards this email chain to Fechter, who indicates his surprise that BBG “had already addressed as many of the findings” as were outlined in 2015.	Awareness of and Responses to Security Program Lapses						
ML0007	H56114-0071-021887	11/3/2015	Lang to Lennon: following OMB to stop conducting BI for non-Federal entity and how staff is already overloaded with BI’s for BBG so increased FIS requirements would be too much	Awareness of and Responses to Security Program Lapses						
ML0008	H56114-0071-020718	11/5/2015	OPM letter to Lennon dated sept. 2015 but has BBG EE edits/responses	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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ML0009	H56114-0058-016902	11/6/2015	Welch emails Lennon, Cobb, Lang, Lagerberg, and Parish regarding a draft response to the OPM/ODNI report on the BBG suitability and security program, “As noted earlier we will not have time to determine by COB on 11/9 our final position on whether all BBG positions are properly categorized as at least sensitive, but we may be able to determine that the PDT criteria provide sufficient flexibility to allow us to make such a determination even using the PDT. I am drafting response to OPM etc assuming the answer is that use of the PDT would not prevent BBG from categorizing all of its positions as at least sensitive and that we are therefore agreeing with the recommendation.” On 11/9/2015, Lennon makes revisions to the draft response and sends the new draft to Welch, Parish, Lagerberg, Lang, and Cobb for their comments.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0010	H56114-0058-016903	11/6/2015	Draft response to OPM/ODNI recommendations with Lennon’s edits. Letter states that they believe most of the problems identified in the Report were the result of poor documentation and record keeping rather than problems that directly weakened National Security. Recommendation 2 states that within 24 months, OHR must ensure all covered positions are correctly designated using the PDT. Response: “BBG agrees with the recommendation insofar as use of the PDT would not prevent BBG from categorizing all of its positions as at least sensitive. BBG has been operating under a head of agency determination that all positions are sensitive, thus requiring use of the SF86. Our Office of General Counsel and others are revisiting the basis for this determination and will we keep ODNI and OPM informed of the outcome.”	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

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ML0011	H56114-0077-062580	11/6/2015	Email from Welch to Lennon regarding edits/responses to ODNI/OPM report; and how they will not have time to determine their final position on whether all BBG positions are properly categorized as least sensitive. Lagerberg forwards the email to Jansen and Hodge.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0012	H56114-0077-062581	11/6/2015	Draft email response to OPM and ODNI addressing recommendations. In this draft response, BBG agrees with and will implement the recommendation to ensure all covered positions are correctly designated using the PDT within 24 months.	Awareness of and Responses to Security Program Lapses						
ML0013	H56114-0077-062582	11/6/2015	Draft response and comments to the draft 2015 ODNI/OPM report. Includes discussion on determining whether at a minimum all positions can be designated as noncritical sensitive, and develop statement to document this underlying rationale. If such a rationale cannot be developed, see if a case can be made for an exemption to apply the PDT.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0014	H56114-0058-015353	1/28/2016	Lang emails Lennon discussing suitability determinations for in the clearance process; “All are handled the same. All are sensitive positions.”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0015	H56114-0058-012978	3/7/2016	Jansen email to OPM discussing grantees and background investigations, as well as delegated authority. Jansen to Kligerman asking for advice related to OPM FIS changing investigation requirements related to grantees. Also notes SAC imbalance is threatening their delegated authority. Lennon to Kligerman specifically referencing MBN concern over grantee background investigations. Earlier emails in chain are	Awareness of and Responses to Security Program Lapses						

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ML0016	H56114-0058-014478	3/7/2016	OPM email to Jansen discussing personnel security and HSPD-12 for grantee organizations; asks whether they need to perform background investigations. Jansen emails Kligerman further discussing grantee investigations and questions existence of delegated authority (“not in compliance with MOU between OPM and BBG”). Lennon to Kligerman notes MBN unhappy over SEC background checks; and FIS would require changes related to grantees. MBN is slow to enact SEC current process.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0017	H56114-0058-012738	6/2/2016	Jansen emails Lennon about the timelines and requirements for BBG to perform investigative functions and informs her that BBG is allowed to “close investigations without all the leads”.	Awareness of and Responses to Security Program Lapses						
ML0018	H56114-0070-039064	11/10/2016	Lang emails Lennon a list of critical items in need of discussion, which includes position sensitivity for BBG and physical security issues related to the Cohen building. Lennon responds, “This is the agenda I’ve been promising you for the past few days but couldn’t seem to get to with other priorities taking all my time.’	Awareness of and Responses to Security Program Lapses						
ML0019	H56114-0070-007848	11/16/2016	Fechter emails minutes of November 16th “Updates on Security Projects” meeting to Jansen, Kligerman, and Lennon.	Awareness of and Responses to Security Program Lapses						
ML0020	H56114-0070-007849	11/16/2016	Kligerman, Jansen, Lennon and others meet to discuss updates on security projects including physical security and position sensitivity level for agency personnel. Minutes note that past Agency leaders determined “that all Federal positions within the Agency would be classified under a blanket category of “non-critical sensitive.” That blanket designation has come into question in the past couple of years...”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0021	H56114-0096-0080709	11/16/2016	Security Working Group memo indicates that past Agency leadership determined “that all Federal positions within the Agency would be classified under a blanket category of ‘non-critical sensitive,’” and shows knowledge of Kligerman, Jansen, and Lennon that BBG has less than one year to review and re-classify everyone’s position sensitivity across the entire Agency.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0022	H56114-0070-002510	12/20/2016	Jansen emails Lennon a memo regarding position reassessment required by 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
ML0023	H56114-0070-002511	12/20/2016	Jansen writes a memo to Lennon regarding the reassessment of agency positions and corresponding investigative requirements obligated by 5 CFR 1400. Jansen tell Lennon that “A perceived flexibility no longer exists that allows the BBG to self-proclaim a minimum position sensitivity for all positions located therein.”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0024	H56114-0070-028291	1/17/2017	Fechter emails Lennon about “grilling” Jansen on Jansen’s report, which was written on December 19, 2016 and concerned implementation of 5 C.F.R. 1400 requirements. Fechter maintains that, “There are clearly persisting questions regarding which Agency positions could potentially pose a material adverse impact on the conduct of US foreign relations.”	Awareness of and Responses to Security Program Lapses						
ML0025	H56114-0070-028292	1/17/2017	Lennon and Fechter edit the memo originally sent by Jansen to Lennon regarding the reassessment of agency positions required by 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
ML0026	H56114-0070-027036	1/24/2017	Fechter emails Lennon a “game plan” outlining how HR and SEC can rectify 5 CFR 1400 issues.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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ML0027	H56114-0070-027037	1/24/2017	Fechter outlines how HR and SEC can rectify 5 CFR 1400 issues and describes the position designation tool.	Awareness of and Responses to Security Program Lapses						
ML0028	H56114-0077-071124	1/24/2017	Fechter emails Jansen the edited version of the 5 CFR 1400 compliance plan that Jansen had originally sent to Lennon in December 2016.	Awareness of and Responses to Security Program Lapses						
ML0029	H56114-0077-071125	1/24/2017	Lennon and Fechter edit the memo originally sent by Jansen to Lennon regarding the reassessment of agency positions required by 5 CFR 1400.	Awareness of and Responses to Security Program Lapses						
ML0030	H56114-0070-027123	1/25/2017	Jansen emails Fechter disputing the need to edit Jansen’s original report on 5 CFR 1400 compliance, which he sent to Lennon in December 2016.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0031	H56114-0070-027124	1/25/2017	Jansen forwards this October 2016 memo to Fechter, explaining SEC’s thinking related to physical security and investigative requirements of Grantee personnel.	Awareness of and Responses to Security Program Lapses						
ML0032	H56114-0070-026483	1/27/2017	Fechter emails Kligerman for an update regarding the legal context of OCB’s tier 5 level background investigations, as originally discussed in a November 2016 meeting on security project updates.	Awareness of and Responses to Security Program Lapses						
ML0033	H56114-0070-025383	2/6/2017	Lennon emails Fechter about the wording of Jansen’s memo on 5 CFR 1400 requirements and notes that, “The way it currently reads, it seems we haven’t been designating positions correctly or at all.” Fechter responds that he believes that is exactly what Jansen was trying to say in his report.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

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ML0034	H56114-0070-008217	3/2/2017	Andross emails Kligerman and Lennon additional OIG documents concerning BBG IT and security issues.	Awareness of and Responses to Security Program Lapses						
ML0035	H56114-0070-008221	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2013.	Awareness of and Responses to Security Program Lapses						
ML0036	H56114-0070-008224	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2014.	Awareness of and Responses to Security Program Lapses						
ML0037	H56114-0070-008227	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2015.	Awareness of and Responses to Security Program Lapses						
ML0038	H56114-0070-008232	3/2/2017	Andross forwards Kligerman and Lennon OIG report on BBG security issues for FY 2016.	Awareness of and Responses to Security Program Lapses						
ML0039	H56114-0070-008912	3/15/2017	Bogans emails Lennon with the Weekly Management Report, which contains BBG security issues.	Awareness of and Responses to Security Program Lapses						
ML0040	H56114-0070-008913	3/15/2017	Weekly report sent to Lennon notes that BBG staff, “continue to update security policy within the BAM to change existing policy on security clearances, including updating long-standing policy on employees with dual citizenship.” Report also notes physical and cyber security issues as well as notes a request for an extension on the position sensitivity deadline.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0041	H56114-0070-008526	3/24/2017	Fallon emails Lansing, copy to Kligerman and Lennon, attaching a memo from Mower to the landing team the day before, voicing various concerns, and raises questions about her credibility and other problems with her claims.	Performance Issues						
ML0042	H56114-0070-008527	3/24/2017	Undated memo from Mower lists examples of alleged “Bloat/Inefficiency” in administrative jobs at the agency/VOA, mentions examples of “burrowers” too, and questions what several people do in their roles.	Performance Issues						
ML0043	H56114-0070-007717	3/30/2017	Fechter and Lennon email OPM about extending the deadline for closing the Designation of Position Risk and Sensitivity recommendations.	Awareness of and Responses to Security Program Lapses						
ML0044	H56114-0077-070676	3/30/2017	OPM’s 2015 audit lists issues with BBG’s designation of position risk and sensitivity, investigative processing, and other security problems. Fechter emails Jansen and Lennon, attaching this audit.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0045	H56114-0077-070599	4/6/2017	Fechter, Lennon, and Jansen email OPM and DNI and request an extension on fully implementing 5 CFR 1400.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

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					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0046	H56114-0085-034875	4/18/2017	Fallon (chief of staff) emails Kligerman, copy to others, including Lennon and Tran, summarizing the meeting the day before to discuss the agency’s travel processes and “possible directions for tightening up our position.” He says he gave the CEO a readout and the CEO was broadly supportive, and lists out what the changes would be, including that the CEO see and sign off on all federal, non-firewall protected travel and “[the CEO] believes strongly that, given the fiscal situation, [the agency] need[s] to put [themselves] in the best position possible when defending [their] travel budget.” There is also a discussion about setting travel caps. There is further discussion through May 2017. Tran then forwards it to Walsh on 8/15/18, more than a year later, with no text in the email body.	Performance Issues						
ML0047	H56114-0096-0041105	4/18/2017	Draft memo on 5 CFR 1400 compliance, which was edited from Jansen’s original memo.	Awareness of and Responses to Security Program Lapses						
ML0048	H56114-0068-009359	6/14/2017	Fechter emails Lennon about HR dysfunction, including the fact that HR Operations “continues to neglect to ask the necessary questions required to accurately capture who is supervising whom” for Position Description purposes and wondering “how many of the employees on a supervisory PD who aren’t actively supervising have PD’s that are classified at a higher grade as the result of the supervisory duties they are presumed to be performing.”	Performance Issues		X	X		X	
ML0049	H56114-0077-069577	8/1/2017	Miltner emails Lennon OPM’s final report on BBG’s suitability and security program.	Awareness of and Responses to Security Program Lapses						
ML0050	H56114-0077-069578	8/1/2017	OPM’s final report on BBG’s suitability and security program sent to Lennon. Report calls out designation of position risk, investigation processing, and other security program issues at BBG.	Awareness of and Responses to Security Program Lapses		X	X		X	

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					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0051	H56114-0068-029670	8/2/2017	Jansen sends Kligerman OPM’s final report on BBG’s suitability and security. Report calls out designation of position risk, investigation processing, and other security program issues at BBG.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0052	H56114-0077-051524	8/3/2017	Jansen emails Lennon and others regarding a request for funding to comply with security program requirements.	Awareness of and Responses to Security Program Lapses						
ML0053	H56114-0077-051525	8/3/2017	Request for funding to comply with security program requirements sent by Jansen to Lennon.	Awareness of and Responses to Security Program Lapses						
ML0054	H56114-0077-051526	8/3/2017	Request for funding to comply with security program requirements sent by Jansen to Lennon.	Awareness of and Responses to Security Program Lapses						
ML0055	H56114-0077-069626	8/11/2017	Jansen emails Lang regarding lack of security staff to conduct background investigations. Jansen relates that he has informed Lennon about the problem and “I can only scream help in one language, apparently a language not understood by senior management.” Lang responds, “I know you have been upfront with Lennon on the manpower-- not sure how to emphasize this other than to ask her if we can go direct with Lansing.”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0056	H56114-0068-021232	9/25/2017	Rosenholtz emails Lennon a draft memorandum titled “Update on OIG Inspections/Audits and GAO Engagements”.	Awareness of and Responses to Security Program Lapses						
ML0057	H56114-0068-021233	9/25/2017	Draft memorandum titled “Update on OIG Inspections/Audits and GAO Engagements” says that a May 2017 OIG recommendation regarding establishment of a protocol on background investigations for grantees remains open.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0058	H56114-0010-008579	10/4/2017	Lennon, Kligerman, Jansen and Fechter meet to discuss 5 CFR 1400 compliance and whether to seek a waiver.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0059	H56114-0068-018822	10/12/2017	Fechter emails Lennon a draft document titled “Personnel Security Risks Facing the BBG”, which he says is based on a conversation with Jansen.	Awareness of and Responses to Security Program Lapses						
ML0060	H56114-0068-018823	10/12/2017	Draft document titled “Personnel Security Risks Facing the BBG” includes the risk that failure to address OPM/ODNI recommendations could lead to the loss of BBG’s delegated authority to conduct personnel security operations.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0061	H56114-0068-009347	11/1/2017	Fechter emails Kligerman (with a copy to Lennon and Jansen) documents requested by Kligerman as background 5 CFR 1400 compliance, including a draft document titled “Personnel Security Risks Facing the BBG”.	Awareness of and Responses to Security Program Lapses						
ML0062	H56114-0068-009348	11/1/2017	Draft document titled “Personnel Security Risks Facing the BBG” includes discussion of foreign intelligence agencies targeting BBG. Fechter has deleted the section discussing the risk of BBG losing its delegated authority to conduct personnel security operations (but it is still visible in the markup view of the draft document).	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0063	H56114-0069-010706	12/1/2017	HR (LER) employee Coleman emails Lennon a timeline for complaints made by VOA employee Struck, and related emails.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0064	H56114-0069-010707	12/1/2017	Timeline for complaints raised by VOA employee Struck, and related emails, show that HR (LER) employee Coleman was made aware of Struck’s bullying complaint on 1/19/2017. After investigating the complaint during January and February, Coleman and others in her office were unresponsive until June, when the bullying complaints made by Struck and her female coworkers at Learning English were raised again. After asking for and receiving supporting documents from Struck in August, Coleman has no further communication with her. The August emails forwarded by Struck to Coleman are hostile and unprofessional communications from the alleged bully to his supervisor Bertel, which Coleman and HR director Cobb had in fact already received, as they were among the original recipients. Coleman’s timeline also says that VOA management had instructed HR to disregard the issues raised by Bertel.	Performance Issues						
ML0065	H56114-0069-039901	1/31/2018	OPM inspector Wold emails Jansen informing him that a review of the BBG security and suitability program is tentatively scheduled for April 2018. On 2/1/2018, Jansen forwards Wold’s email to Lennon. On 2/2/2018, Fechter attaches it to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses						
ML0066	H56114-0069-039902	2/1/2018	Andross emails Turner, Jansen and others about open OIG recommendations from an inspection of MBN. Three of the open recommendations require action by OCFO regarding de-obligation of funds, closure of expired grants, and inventory reconciliation. The fourth open recommendation, regarding the establishment of a protocol for grantee background investigations, requires action by OMS and OGC. On 2/2/2018, Fechter attaches Andross’s email to his email to Kligerman and Lennon regarding 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses; Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0067	H56114-0069-039900	2/2/2018	Fechter emails Kligerman (with a copy to Lennon) regarding BBG’s commitment to OIG to establish a protocol for investigating grantee positions and the upcoming OPM/ODNI review of BBG’s security and suitability program. Fechter points out that OPM and ODNI are monitoring BBG’s progress on 5 CFR 1400 compliance. Attached again are the documents sent to Kligerman on 11/1/2017 as background on 5 CFR 1400 compliance.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0068	H56114-0069-038869	2/7/2018	Fechter emails Lennon in follow-up to his 2/2/2018 email to Kligerman regarding 5 CFR 1400 compliance, attaching a draft memorandum with the subject line “Reassessment of Agency Positions for National Security Sensitivity Levels”. “I had attached everything but the latest version of this memo that makes the case for the blanket waiver when I sent this last email to you and he. Let me know if this isn’t EXACTLY what David wants.”	Awareness of and Responses to Security Program Lapses						
ML0069	H56114-0069-038870	2/7/2018	Draft memorandum addressed to Lansing with the subject line “Reassessment of Agency Positions for National Security Sensitivity Levels” states that 5 CFR 1400 required reassessment of all BBG position sensitivity designations by 7/6/2017, that BBG has asked OPM for an extension of the compliance deadline, and that OMS/SEC and GC recommend that the CEO seek a waiver from OPM “to classify all positions within the Agency not determined to be critical-sensitive, as non-critical sensitive”. The draft memorandum refers to the 2015 OPM/ODNI threat to revoke BBG’s delegated authority if positions are not properly designated. It refers to past authorization from OPM to classify all positions as sensitive, about which Lennon has inserted the editorial comment “Am I correct that we don’t actually have a copy of said ‘authorization?’”	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0070	H56114-0069-015545	2/9/2018	Lennon emails Fechter a clean draft of the memorandum with the subject line “Reassessment of Agency Positions for National Security Sensitivity Levels”.	Awareness of and Responses to Security Program Lapses						
ML0071	H56114-0069-038678	2/9/2018	Kligerman asks Fechter for prior waiver memos. Fechter only has correspondence between USIA and OPM/OFI from 1991, which he attaches. Kligerman thanks him.	Awareness of and Responses to Security Program Lapses						
ML0072	H56114-0069-038847	2/9/2018	Fechter emails Kligerman (with a copy to Lennon) attaching a draft memo to Lansing (sent to him a short while before by Lennon) regarding their stance on 5 CFR 1400 that BBG request a blanket waiver to maintain the status quo.	Awareness of and Responses to Security Program Lapses						
ML0073	H56114-0069-038848	2/9/2018	Draft memo to Lansing through Trimble and Lennon from Jansen regarding a reassessment of agency positions for national security sensitivity levels that states that “GC, OMS/HR, and OMS/SEC believe the best course of action is to request a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive, broadening the number and type of positions from those mentioned in the correspondence dated 1991, specifically “International Radio Broadcasters, writers, editors and related positions.” “	Awareness of and Responses to Security Program Lapses						
ML0074	H56114-0069-035745	2/28/2018	Fechter requests a meeting with Kligerman to discuss the draft memorandum to Lansing regarding 5 CFR 1400 compliance. On 3/1/2018, Kligerman responds to Fechter, Lennon, and Rosenholtz “This needs to wait until next week or Friday afternoon if it can.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0075	H56114-0069-015206	3/8/2018	Lennon emails Fechter regarding the draft 5 CFR 1400 waiver request memo to OPM and ODNI. "I like it. The only potential issue is I think we need to send it to DK for clearance since we're mentioning the GC's position. He'll say that only the head of Agency can request a waiver so I wonder if we could put in a caveat of sorts that indicates my letter is more or less informing them of the Agency's intent to do this?" Fechter responds that he will revise the draft accordingly and forward it to Kligerman for review.	Awareness of and Responses to Security Program Lapses						
ML0076	H56114-0069-033880	3/8/2018	Draft letter from Lansing to ODNI "requests exemption from the requirement that each covered position be assessed via OPM's Position Designation Tool (PDT) to derive position sensitivity."	Awareness of and Responses to Security Program Lapses						
ML0077	H56114-0069-034390	3/8/2018	Fechter emails Kligerman (with a copy to Lennon) requesting Kligerman's review of a draft memorandum to OPM/ODNI with the subject line "Extension for full compliance of 5 CFR 1400".	Awareness of and Responses to Security Program Lapses						
ML0078	H56114-0069-034391	3/8/2018	Draft memorandum to OPM/ODNI with the subject line "Extension for full compliance of 5 CFR 1400" says that "While the Agency has been working to become fully compliant with the regulation since the passing of 5 CFR 1400...the BBG's General Counsel in coordination with senior management in the Office of Management Services would like to request a waiver to the requirement in 5 CFR 1400 to assess or re-assess the position sensitivity of all covered positions at the Agency. As an alternative, the Agency would like to request permission for a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive."	Awareness of and Responses to Security Program Lapses		X	X	X	X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0079	H56114-0069-034428	3/8/2018	Fechter forwards to Lennon correspondence with ODNI and OPM regarding BBG’s request for an extension of to comply with 5 CFR 1400. “I didn’t put David K on this email, but the ODNI folks are looking for a real response on 1400. I’m bringing this to your attention because I’m not sure if these are the guys we need to petition for a waiver, or if we should tell them we’re going to petition for a waiver with their colleagues. I can reach out to Drew, but Drew isn’t inclined to play ball on this strategy, he clearly wants to fully comply with 1400.” Lennon responds “I don’t know how we can avoid having DK involved. How about drafting something that tells them we are in the process of requesting a waiver?” Fechter responds that he will do so, but “I’m just wondering if we know who to petition. I will check with David, but I’m sure he won’t know.”	Awareness of and Responses to Security Program Lapses			X		X	
ML0080	H56114-0069-034564	3/8/2018	Fechter emails Lennon that he has discussed with Jansen the problem of finding the right point of contact to request a waiver of 5 CFR 1400 compliance from OPM and ODNI. He attaches a draft memorandum with the subject line “Extension for full compliance of 5 CFR 1400”.	Awareness of and Responses to Security Program Lapses						
ML0081	H56114-0069-034565	3/8/2018	Draft memorandum to OPM/ODNI with the subject line “Extension for full compliance of 5 CFR 1400” says that “While the Agency has been working to become fully compliant with the regulation since the passing of 5 CFR 1400...the BBG’s General Counsel in coordination with senior management in the Office of Management Services would like to request a waiver to the requirement in 5 CFR 1400 to assess or re-assess the position sensitivity of all covered positions at the Agency. As an alternative, the Agency would like to request permission for a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0082	H56114-0077-046066	3/9/2018	Jansen emails former security director Lang about a meeting with Lennon in which he “Told her that our backlog was extensive and that it would continue to develop, as the inbound cases will not slow. Told her that our process was no longer serious and needed to be fully revised. My report along with the knowledge of the impending evaluation, pushed her to ask how many people I needed. I was so surprised that I didn’t have a clue what to tell her.” Lang responds that “even a scathing report from the ODNI wouldn’t mean anything” to BBG management. Jansen agrees that Lennon does not care.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0083	H56114-0069-033879	3/12/2018	Fechter emails Kligerman (Lennon and Rosenholtz copied), again requesting Kligerman’s review of the draft 5 CFR 1400 waiver request memo to OPM/ODNI, along with a draft letter over Lansing’s signature formally requesting the waiver.	Awareness of and Responses to Security Program Lapses						
ML0084	H56114-0069-033881	3/12/2018	Draft 5 CFR waiver request memo to OPM/ODNI with the subject line “Extension for full compliance of 5 CFR 1400”.	Awareness of and Responses to Security Program Lapses						
ML0085	H56114-0069-014999	3/19/2018	Kligerman emails Lennon and Turner recommending immediate action on an attached OIG report and draft response regarding an audit of RFE/RL after-employment benefits. “OIG is saying that enough is enough, and they have lost patience with what we have been reporting/promising/not promising for the last few years on this issue.”	Performance Issues		X	X		X	
ML0086	H56114-0069-015001	3/19/2018	Letter from OIG to Lansing regarding the status of recommendations from a 2014 OIG audit of RFE/RL after-employment benefits says “that based on the last response, very little progress has been made on these recommendations. As a result, your next response should address completing action expeditiously. Further delays may be reported to Congress.”	Performance Issues		X	X		X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0087	H56114-0069-015016	3/19/2018	Draft response to 2014 OIG recommendations from an audit of RFE/RL after-employment benefits says that BBG has drafted a new grant monitoring SOP, but that the procedure is still under review and has not been issued.	Performance Issues						
ML0088	H56114-0069-031546	3/19/2018	Weekly report from Fechter to Lennon relates a (1) meeting with Jansen to discuss the justification for additional security resources and (2) Kligerman has the draft 5 CFR 1400 waiver request for review, although the 3/16/2018 meeting to discuss them was missed.	Awareness of and Responses to Security Program Lapses						
ML0089	H56114-0034-009539	3/20/2018	Jansen emails Lennon a draft Personnel Security Program Directive for her review.	Awareness of and Responses to Security Program Lapses						
ML0090	H56114-0034-009540	3/20/2018	Draft Personnel Security Program Directive states that BBG has delegated authority from OPM and ODNI to administer its own personnel security program.	Awareness of and Responses to Security Program Lapses						
ML0091	H56114-0077-067963	3/20/2018	Jansen emails Lennon a draft personnel security program directive.	Awareness of and Responses to Security Program Lapses						
ML0092	H56114-0077-067964	3/20/2018	Draft personnel security program directive outlines procedures for background investigations. It claims that BBG has delegated authority from OPM and ODNI to grant security clearances.	Awareness of and Responses to Security Program Lapses						
ML0093	H56114-0069-030832	3/28/2018	Fechter emails Kligerman seeking advice concerning draft memorandum and draft letter requesting extension for compliance and waiver of 5 CFR 1400 requirements copying Lennon.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0094	H56114-0069-030833	3/28/2018	Draft memorandum from Lennon to OPM/ODNI requesting an extension for completing full compliance of 5 CFR 1400 attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
ML0095	H56114-0069-030834	3/28/2018	Draft letter from Lansing to Director of National Security requesting a waiver of 5 CFR 1400 requirements attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
ML0096	H56114-0069-029741	4/4/2018	Fechter forwards a string of emails to Kligerman which begin on March 14, 2018 that seek advice from Kligerman concerning the attached draft memorandum and draft letter requesting extension for compliance and waiver of 5 CFR 1400 requirements copying Lennon and Jansen.	Awareness of and Responses to Security Program Lapses; Performance Issues						
ML0097	H56114-0069-029742	4/4/2018	Draft letter from Lansing to Director of National Security requesting a waiver of 5 CFR 1400 requirements attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
ML0098	H56114-0069-029743	4/4/2018	Draft memorandum from Lennon to OPM/ODNI requesting an extension for completing full compliance of 5 CFR 1400 attached to email from Fechter to Kligerman for Kligerman’s review.	Awareness of and Responses to Security Program Lapses						
ML0099	H56114-0077-067711	4/11/2018	Fechter sends Jansen, with Lennon copied, two documents IBB planned to send to ODNI that Lennon and Fechter wanted Jansen to review and edit. Kligerman’s recommendation was to ask for a continuation of the status quo. Jansen provides his edits to Fechter’s documents to ODNI.	Awareness of and Responses to Security Program Lapses						
ML0100	H56114-0069-011079	4/12/2018	Lennon tells Jansen that the memos need to move the next day, and Jansen states that he finalized his corrections to the first letter and that he has asked Hodge to obtain the required numbers. Hodge states that the critical sensitive and special sensitive numbers have been added.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0101	H56114-0069-040192	4/12/2018	Kligerman asks who made the changes to the memos and that he wrote it a certain way to preserve the legal position. Jansen tells Fechter “this was the reason I thought it best for him to write the letter in the first place. Send it however he wishes it sent and have a great weekend.” Fechter replied “I hear ya, but if we had waited for him to write the letter himself, we wouldn’t be off the starting blocks. I’m afraid this is just how it goes when GC gets involved.”	Awareness of and Responses to Security Program Lapses; Performance Issues		X				
ML0102	H56114-0069-027214	4/18/2018	Fechter asks Kligerman whether he is willing to run the waiver past Lansing for his awareness and signature. Fechter follows up with Kligerman the next day.	Awareness of and Responses to Security Program Lapses; Performance Issues						
ML0103	H56114-0069-014419	4/23/2018	Lennon states that she saw Kligerman in the hallway who wants them to get the 1400 memo to Lansing. She states “let’s discuss in the morning.”	Awareness of and Responses to Security Program Lapses						
ML0104	H56114-0077-044912	4/23/2018	Fechter asks Jansen if he has been able to review the final version of the memo. Jansen asks whether they are meeting that morning, and Fechter said yes, about staffing, and asks whether Jansen wants to include the memo in the meeting.	Awareness of and Responses to Security Program Lapses						
ML0105	H56114-0069-014122	4/25/2018	Jansen, through Trimble, sends Lansing a memo on Reassessment of Agency Positions for National Security Sensitivity Levels.	Awareness of and Responses to Security Program Lapses						
ML0106	H56114-0069-014371	4/26/2018	Fechter emails Lennon a position sensitivity recommendation document stating “So...I made some changes, too. I wasn’t sure we were getting at what we wanted to do in the Executive Summary so I made a move.” Lennon replies that she has incorporated the changes and added a section, and asks some questions.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0107	H56114-0069-014109	5/8/2018	Fechter emails OPM and ODNI attaching a letter from Lansing regarding 5 CFR 1400 compliance. Lennon forwards the email and attachment to Jansen.	Awareness of and Responses to Security Program Lapses						
ML0108	H56114-0069-014110	5/8/2018	Letter from Lansing to ODNI and OPM regarding 5 CFR 1400. Where the 3/8/2018 draft of the letter had requested exemption from use of the Position Designation Tool, the final letter says that “the Agency has determined that changes in current Agency position designations are not warranted at this time. Accordingly, pursuant to that review, the Agency will continue to consider every covered position at BBG a ‘National security position,’ given the ability of the occupant of each position to potentially bring about a material adverse effect upon the national security.”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0109	H56114-0069-014120	5/8/2018	Lennon brings Trimble on board with the 1400 letter and Trimble states that he supports Lansing signing the letter. Tran sends the letter signed by Lansing.	Awareness of and Responses to Security Program Lapses						
ML0110	H56114-0096-0080708	5/8/2018	Lansing writes a letter to the Office of the Director of National Intelligence and Office of Personnel Management describing the BBGs assessment of position sensitivity designation and concluding that BBG will “continue to consider every covered position at BBG a ‘National security position’”. Lansing lists Lennon as the point of contact for BBG security programs.	Awareness of and Responses to Security Program Lapses						
ML0111	H56114-0069-013851	5/25/2018	Fechter sends Lennon a draft explanation for delayed delegated authority for Kligerman, stating it’s what “Chris, Dan and I dreamt up for approaching David.” Lennon replies “I think the big smooch will do it...”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0112	H56114-0007-005952	5/30/2018	LER Williams-Jones emails Lennon expressing concern about the potential hiring of Kotz. On 7/27/2018, Williams-Jones emails Lennon again, copying Walsh, that she has not had any response to her prior email, and that more information about Kotz's inappropriate behavior has emerged. Outside of the email string, Walsh speaks to Williams-Jones about the issue. On 8/1/2018, Williams-Jones emails Lansing, copying Walsh and Lennon, that she has not received any answers to her concerns, and that "employees are upset and anxious about the Agency's plan with respect to David Kotz." Williams Jones meets with Walsh and Lennon about the issue on 8/3/2018. Walsh disagrees with the claims that Kotz is creating a hostile work environment, and references the extensive reference checks done by Kligerman.	Performance Issues			X		X	
ML0113	H56114-0069-013793	5/30/2018	Lennon sends Kligerman a draft memo to the Director of OPM regarding BBG's Delegation of Authority, for his review.	Awareness of and Responses to Security Program Lapses						
ML0114	H56114-0077-008991	5/31/2018	NBIB Dagenias send to Jansen draft MOU; Jansen ratifies; Lennon asks if this will help with OPM; and Jansen responds that it allows them to use e-QIP, that it is an update but has nothing to do with SNAP.	Awareness of and Responses to Security Program Lapses						
ML0115	H56114-0002-016717	6/19/2018	Cobb, Tran, Lennon and Walsh, among others, email to find a "creative" way to offer Powers pay at a higher step by considering his hire to be a reappointment from State under a Career Conditional Appointment in the competitive service.	Performance Issues						
ML0116	H56114-0002-016718	6/19/2018	Statement from Ullah to Cobb to support hiring Powers' at higher pay.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0117	H56114-0002-049278	6/19/2018	Tran has Ullah approve pay for Powers after Cobb finds a way to give him a higher step under the superior qualifications pay setting authority.	Performance Issues						
ML0118	H56114-0077-066838	6/20/2018	On June 8, 2018, Jansen sends Kligerman an email regarding a request for information concerning RFE investigations and the Grantee Agreement. He also states “Concerning the resolution of the IG recommendation, I believe that this will be best resolved following OPM’s decision concerning our 1400 exemption request, which is pending. That said, we could withdraw the exemption request and initiate an immediate reevaluation of position sensitivity, agency wide, and then assess the status of the Grantees based on information developed from the Agency’s reevaluation (two birds, one stone), which would allow us to more precisely evaluate a process change for the Grantees (said that tongue in cheek with hope/optimism). Give it a thought.” Jansen follows up with Lennon, stating that he sent the message to Kligerman and to let him know if she would like him to speak to Kligerman directly. Lennon states that she would like him “to contact Dave directly to discuss this and the memo to OPM re authority to conduct investigations.”	Awareness of and Responses to Security Program Lapses						
ML0119	H56114-0069-013384	6/25/2018	Lennon forwards email to Luer regarding case management software that would track security clearances and “make the task more efficient.” She asks Luer to look at Jansen’s SOW to ensure it looks OK.	Awareness of and Responses to Security Program Lapses						
ML0120	H56114-0069-013385	6/25/2018	SOW sent by Jansen regarding BBG/SEC Personnel Security Case Management System.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0121	H56114-0065-020604	8/6/2018	Cobb's notes from meeting with OGC Wojcik and Kligerman to discuss Wojcik's concerns with Kotz's behavior and performance. Kligerman had hired Kotz. Wojcik notes that she had already provided Kligerman with the information but was stating it again. Wojcik was concerned that Kligerman's investigation of Kotz did not include other people in the agency but rather his references.	Performance Issues			X		X	
ML0122	H56114-0007-063549	8/7/2018	Walsh asks Lennon for her take on former VOA employee Taylor's harassment complaint.	Performance Issues						
ML0123	H56114-0065-020447	8/7/2018	Former VOA employee Taylor made an allegation of harassment, retaliation, and wrongful dismissal to Amanda Bennett and Lansing. On Jan. 25, 2018, Bennett acknowledged the letter and stated that she was looking into it and would get back with a response. Taylor replied and followed up twice in Feb., and followed up again in April. In April, Bennett stated that she had asked Lennon to look into the complaints. In August, Taylor followed up stating that she still had not heard anything back despite having made a claim of harassment, which she mentioned that the agency encourages people to do. Bennett forwards the email to Cobb and Lennon stating that she thought the issue was thoroughly reviewed and that someone had communicated back to Taylor and asked whether that was not the case.	Performance Issues						
ML0124	H56114-0007-062699	8/14/2018	Walsh emails Lennon that he does not want to reply back to Williams-Jones "until we know more about the other issue you and I discussed yesterday." Lennon states that "It should come as no surprise that the deadline wasn't met and I got a preview that a counter offer will be presented today." Walsh replies "Gotcha. Curious to hear what that is..."	Performance Issues						
ML0125	H56114-0002-047411	8/15/2018	Ullah emails Cobb that Mower told Walsh that Ullah was wasting Agency money and handling travel in an irregular way and that she shared similar complaints with Lennon.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0126	H56114-0002-047544	8/15/2018	Walsh emails Ullah that Tran has approved his trip to Geneva (see other emails in the Timeline this day and the day before). Ullah responds that he is talking to Lennon and am filing a false claim against Mower.	Performance Issues						
ML0127	H56114-0007-046548	8/15/2018	Walsh emails Mower after they talked that day about Ullah’s travel that Walsh spoke to the travel office and “[t]hey went through everything with me and Haroon is doing everything right w/r/t this trip” [the Geneva trip]. Walsh says that it fits into guidelines and the budgeting and OCR vetted his medical waiver and it looks “very legit” and the travel folks recommend approving it. He notes that the agency is putting in place a more formal travel approval process going forward and says it has been in the works for a few weeks “because of other travel issues.” Later in the chain, Walsh notifies Tran and Lennon of his meeting with Mower that day. He notes that he’s confident that proper travel procedures are being followed.	Performance Issues						
ML0128	H56114-0007-062470	8/17/2018	Walsh emails Cobb asking if he could beef up his ECQ essays before they got to OPM for the Deputy Director Ops positions. Walsh tells Tran that Haroon sent the document out without clearing with anyone and “It was not great.”	Performance Issues						
ML0129	H56114-0007-063027	8/17/2018	Walsh emails Kligerman that he will not reply to a request from Wojcik for information about investigations of Kotz’s behavior and will defer to Kligerman’s response.	Performance Issues			X		X	
ML0130	H56114-0065-016671	8/27/2018	Cobb emails Lennon regarding former employee Gonzalez, who has not worked any hours under her consultant appointment but is receiving health insurance. Cobb tells Lennon that unless Gonzalez works some hours under her appointment, it should be terminated. Lennon replies that they should speak with Walsh about it.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0131	H56114-0077-020812	8/30/2018	Fechter lets Jansen know that Kligerman seemed not to have revisited his letters regarding delegation of authority in some time and he hoped that pinging him would “prod him into action. If you email him and I keep bothering him, maybe he’ll move on this.” Jansen replied “Old story, new day!” Fechter responded “Truer words.”	Awareness of and Responses to Security Program Lapses; Performance Issues						
ML0132	H56114-0007-061104	9/14/2018	Walsh’s notes regarding meetings with OMB and a follow-up meeting with Turner, say that OMB “is now threatening that if USAGM submits any SES selections to OPM’s QRB that OPM is going to conduct an HR audit of USAGM, implying retaliation of some sort and/or that we have incorrectly followed HR processes. Marie Lennon, who also was in this meeting, and John, Haroon, and me were very surprised and taken back by this. Marie asserted, and I agreed to the best of my knowledge, that USAGM follows all HR processes to the t....The following week either on Sept 11 or 12, Grant came to my office one day and closed my door. Said he wanted to talk about the SES positions. He said two main things: first, he said he thinks the agency should pull back on the two Dep Dir selections and instead create an agency SES development program as a way to fill SES jobs in a way that OPM would not be able to interfere with. He also said directly, and I was really taken aback by this, that me and Haroon are too young to fill SES positions. I pushed back on this assertion but ended the conversation pretty quickly because of how angry I was with his comment.”	Performance Issues			X		X	
ML0133	H56114-0065-019810	9/21/2018	Weekly HR report to Lennon: “We received the formal results of OPM’s audit [of HR’s Delegated Examining activities] and it is not good.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0134	H56114-0096-0099375	10/22/2018	OPM sends letter and draft report to Lennon on behalf of SEA. Lennon forwards to Jansen, commenting “Pretty grim...we’ll need to huddle ASAP.” On 10/25/2018, Jansen forwards the report to Cheng, saying “they have thrown the kitchen sink at us (to get movement, I’m sure).” Cheng forwards the report to Kligerman, telling him “It’s taking away our delegated investigative authority and requiring that we comply with a number of requirements before it’ll consider re-instating that authority....I’ll continue to work w Security. Maybe we can discuss w OPM whether an incremental approach could persuade them to reconsider our investigative authority (if that’s still what we want).”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0135	H56114-0096-0099376	10/22/2018	Letter from OPM to Lansing regarding review of USAGM’s personnel suitability program says that USAGM has not made required corrective efforts from 2014 review and new deficiencies have since been identified, including lack of proper delegated authority.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0136	H56114-0096-0099377	10/22/2018	Draft report by ODNI and OPM on USAGM’s personnel suitability program has 37 recommendations for corrective action. Having failed to take corrective action after the 2014 program review, USAGM must immediately cease investigations and begin using OPM’s National Background Investigations Bureau. If USAGM does not comply with corrective actions within 90 days of the issuance of a final report, its adjudicative authority will also be revoked.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0137	H56114-0034-010718	10/25/2018	Cheng emails Jansen copying Rosenholtz and Fechter with draft letters to OPM and the DNI seeking the reauthorization of delegated authority. On 11/7/2018, Fechter emails Jansen, copying Luer, Rosenholtz, and Lennon the letters asking whether Cheng had everything she needed to finalize the letters. Fechter said the letters might be late given that the group had received OPM’s SNAP inspection report but the letters were still relevant.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0138	H56114-0034-010719	10/25/2018	Draft letter to OPM regarding delegated authority MOU prepared by Cheng.	Awareness of and Responses to Security Program Lapses						
ML0139	H56114-0034-010720	10/25/2018	Draft letter to Director of DNI regarding delegated authority MOU prepared by Cheng.	Awareness of and Responses to Security Program Lapses						
ML0140	H56114-0077-009026	10/25/2018	Fechter emails Jansen (copying Lennon) an action plan for response to the OPM report. “You’re also going to notice a lot of ‘management directives’ in responding to OPM’s recommendations. That’s mostly because we can author management directives immediately, while also creating a demonstrable record of having taken fast action....The nature of OPM’s report isn’t lost on any of us—it’s mean spirited in sections—but, again, the spirit of this document is about demonstrating our humility and sincerity...so forgive us for creating action plans on recommendations that appear to be intended more to embarrass us than anything else.”	Awareness of and Responses to Security Program Lapses						
ML0141	H56114-0077-018701	10/25/2018	Initial enterprise risk assessment for USAGM notes shortcomings in OGC, HR, and Contracts.	Performance Issues		X	X		X	
ML0142	H56114-0034-009193	10/29/2018	Offering a suggested response to an email from Jansen to Lennon in which Jansen informs Lennon of the need for more security personnel, Luer writes to Lennon “We will not be hiring any additional SEC staff until delegated authority is returned, and we have had an opportunity to observe how the new SOPs/workflow enhancements have impacted operations.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0143	H56114-0034-022952	10/29/2018	Jansen responds to questions from Lennon about the status of the OPM suitability program recommendations "...at some point we will need to talk about staffing this office. Ms. Loss is fully aware that we do not have enough people to process, investigate, and adjudicate cases in the timely manner, as required by OPM. On top of that, we are contemplating a change in the investigative process for the Grantees, which would ultimately bury us completely. We can fix all 37 issues, but staffing this office with the correct number of personnel is the only way to make this process work." On 10/30/2018, Lennon responds, "Do you really think anyone in the front office will approve hiring investigators, etc. given this report? Step one is fix the 37 issues and get our authority back, then staff up the office." Jansen replies, "Hiring is part of the cure. If they don't understand how that fits into this issue, I will explain it tomorrow. I believe Matt will be at the meeting to share SEC's explanation and needs with the CEO. As I stated earlier, if personnel are not forthcoming the agency needs to send operational responsibility for investigative efforts to OPM. That said, no one wants that to happen and therefore I believe that they'll take the request seriously. Moreover, this SNAP report is a wake up call that tells the agency OPM/ODNI is no longer accepting noncompliance while at the same time declaring their expectation that our program will be taken seriously by USAGM, which includes proper staffing. Bottom line, we can't be timely without a staff."	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0144	H56114-0077-009027	10/30/2018	USAGM Office of Security Immediate Action Plan in response to OPM's Suitability review, including responses and deadlines to complete tasks.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0145	H56114-0034-009575	10/31/2018	Cheng emails Walsh, Lennon, Jansen, and Kligerman about the OPM draft report, presenting an argument that USAGM does not need to immediately stop investigative activities. Lennon forwards Cheng’s email to Fechter, Rosenholtz, and Luer. Fechter responds “...smells like snake oil to me. Am I the only one nonplused by Lilian’s email?” Luer adds that he approves of Jansen’s recommendation that USAGM close investigations that are near completion and transfer the new investigations, “Semantics could get us in some hot water!” Rosenholtz says that he will put Jansen’s recommended position into the audit response letter.	Awareness of and Responses to Security Program Lapses						
ML0146	H56114-0034-021467	10/31/2018	Fechter emails Jansen, copying Lennon, requesting his review of latest draft of action plan for response to OPM report.	Awareness of and Responses to Security Program Lapses						
ML0147	H56114-0034-022967	10/31/2018	In response to her request, Jansen emails Lennon the draft Personnel Security Management Directive.	Awareness of and Responses to Security Program Lapses						
ML0148	H56114-0034-022968	10/31/2018	Draft Personnel Security Management Directive states that USAGM has delegated authority from OPM and ODNI to administer its own personnel security program.	Awareness of and Responses to Security Program Lapses						
ML0149	H56114-0001-013016	11/1/2018	Following an email from Cheng that presented an argument that USAGM was not required to immediately stop conducting background investigations, Walsh asks Lennon and Jansen, copying Kligerman and others, if USAGM should temporarily stop conducting investigation. He outlines the actions OMS is to take in preparing a corrective action plan and response to OPM.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0150	H56114-0007-059360	11/1/2018	Cheng emails Walsh, Lennon, Jansen, and Milko, copying Kligerman regarding her conversation with OPM counsel. Cheng states that she does not believe the agency is required to cease investigations at that time but asks Lennon and Jansen whether it makes sense to take proactive measures in case the agency is later ordered to transfer its investigations. Lennon then responds to Walsh only, explaining that they are working on draft responses and that she has asked for Jansen’s input on some responses before the circulating a first draft to Walsh and Kligerman the following week. Walsh. She states, “The longer we can push out the meeting with JFL, the better chance we’ll have to get solid procedures in place, but we’ll be ready to brief him whenever it’s best for his schedule.” Walsh agrees with the plan and suggests discussing when it makes sense to meet with “JL.”	Awareness of and Responses to Security Program Lapses						
ML0151	H56114-0034-009753	11/1/2018	Rosenholtz emails Lennon, Luer, Fechter, and Lusby a draft response letter to the OPM suitability report and a draft cover letter.	Awareness of and Responses to Security Program Lapses						
ML0152	H56114-0034-009754	11/1/2018	Draft letter outlines USAGM response to OPM’s suitability report.	Awareness of and Responses to Security Program Lapses						
ML0153	H56114-0065-022862	11/1/2018	Lennon emails Walsh that she has been working on the draft response to OPM’s report on the personnel suitability program and will send it to Jansen because portions require his input.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0154	H56114-0034-009940	11/2/2018	Lennon emails Jansen, copying Fechter, Luer, and Rosenholtz, attaching draft responses to OPM’s recommendations and requesting his comments by COB. Jansen responds that he rewrote the Director’s Letter and he will review the recommendations over the weekend. Rosenholtz responds to Lennon, Luer, and Nicholas Fechter noting issues Jansen’s edits, including that the agency has not stopped investigative activities, that was not their plan, and that Jansen should not be the POC.	Awareness of and Responses to Security Program Lapses						
ML0155	H56114-0034-009941	11/2/2018	Draft cover letter and responses to OPM’s draft report from Rosenholtz, incorporating Jansen’s edits.	Awareness of and Responses to Security Program Lapses						
ML0156	H56114-0034-023007	11/2/2018	Lennon emails Jansen requesting his input on the draft response to OPM recommendations. Later that day, Jansen responds, “I have attached the beginning of my edits, but it became confusing so I re-wrote the letter on the other attached document (Director’s Letter). Please review/I hope it helps to move the process. I have not had a chance to review the recommendations by recommendations. I’ll get to them Monday. Have a good weekend!” Lennon emails Luer, “This is unacceptable – in so many ways.”	Awareness of and Responses to Security Program Lapses						
ML0157	H56114-0034-023008	11/2/2018	Draft response cover letter and responses to OPM recommendations with Jansen’s edits.	Awareness of and Responses to Security Program Lapses						
ML0158	H56114-0034-023009	11/2/2018	Jansen’s rewrite of the cover letter to OPM regarding its draft report. Jansen names himself as the POC.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0159	H56114-0034-010337	11/5/2018	Rosenholtz emails Lennon, Luer, Lusby, and Fechter with edits to management directives to security staff implementing recommendations from OPM suitability report.	Awareness of and Responses to Security Program Lapses						
ML0160	H56114-0034-010338	11/5/2018	Draft of management directives to OMS/S Staff regarding Practices to Begin Immediately from OPM’s draft suitability report	Awareness of and Responses to Security Program Lapses						
ML0161	H56114-0034-010339	11/5/2018	Draft of management directives to OMS/S Staff lists Practices to Cease Immediately from OPM’s draft suitability report.	Awareness of and Responses to Security Program Lapses						
ML0162	H56114-0034-010721	11/7/2018	Draft MOU regarding delegation of investigative authority, prepared by Cheng.	Awareness of and Responses to Security Program Lapses						
ML0163	H56114-0007-038847	11/9/2018	Lennon emails Walsh and Cheng, attaching a draft response to the OPM draft report and Management Directives implementing the report. Walsh responds that he was speaking with Tran and a USAGM Board member asked for a security update at the following week’s Board meeting.	Awareness of and Responses to Security Program Lapses						
ML0164	H56114-0007-059133	11/9/2018	Walsh emails HR employees who raised a complaint alleging harassment and hostile work environment against HR director Cobb, letting them know that an investigation into the claims found insufficient evidence to support them, but Cobb recognizes there is room for improvement in communications. He forwards his email to Lennon.	Performance Issues						
ML0165	H56114-0034-011061	11/9/2018	Fechter emails Jansen and Lennon discussing the draft letters to OPM/ODNI regarding renewal of the MOU. Fechter believes these drafts were the letters presented to Trimble. Even though they already received the SNAP inspection report, Fechter thinks they should still send the letters.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0166	H56114-0034-023167	11/9/2018	Lennon emails Walsh and Cheng, attaching draft responses to the OPM draft report.	Awareness of and Responses to Security Program Lapses						
ML0167	H56114-0034-023168	11/9/2018	Draft response to OPM director regarding OPM’s draft report	Awareness of and Responses to Security Program Lapses						
ML0168	H56114-0034-023169	11/9/2018	Draft Management Directive to OMS/S Staff with “Practices to Cease Immediately” in light of OPM’s draft report	Awareness of and Responses to Security Program Lapses						
ML0169	H56114-0034-023170	11/9/2018	Draft Management Directive to OMS/S Staff with “Practices to Begin Immediately” in light of OPM’s draft report	Awareness of and Responses to Security Program Lapses						
ML0170	H56114-0034-011019	11/12/2018	Fechter emails Lennon, in response to her email to Jansen regarding his draft presentation outline to the board, “Suspiciously, there’s nothing under Personnel Security :).”	Awareness of and Responses to Security Program Lapses						
ML0171	H56114-0034-023134	11/12/2018	Lennon emails Jansen with comments on his draft presentation outline to the board. Her version removes bullets regarding Personnel Security from Jansen’s original version. She provides suggested briefing points to Jansen, including one regarding the OPM audit of personnel security.	Awareness of and Responses to Security Program Lapses						
ML0172	H56114-0034-023135	11/12/2018	Lennon’s revision of Jansen’s draft presentation outline to the board. Details regarding OPM/ODNI report and USAGM’s response to it are removed from Jansen’s original version.	Awareness of and Responses to Security Program Lapses						
ML0173	H56114-0034-023139	11/12/2018	Jansen emails Lennon, attaching a draft outline for a presentation to the board. Lennon forwards the email and outline to Fechter and writes, “You’ll love this.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0174	H56114-0034-023140	11/12/2018	Jansen’s draft board presentation outline is a detailed overview of the Office of Security and includes discussion of the OPM/ODNI assessment and the actions being taken to correct the deficiencies.	Awareness of and Responses to Security Program Lapses						
ML0175	H56114-0007-037061	11/13/2018	Lennon emails Walsh, copying Jansen draft talking points regarding security for USAGM board meeting. In response to Walsh’s question whether the agency’s delegated authority was actually suspended by the OPM draft report, Lennon states the GC should answer that question. “I agree with you that we shouldn’t be alarming the govts and grantees unnecessarily, but we’re trying to play it as safe as possible. I’m not sure GC would see it in the same way.” Jansen responds that the agency’s delegated authority is technically not suspended but the renewal process has been placed in pending mode until corrections are made. Walsh responds, “I don’t think we should say it was suspended though if it wasn’t. Think we should explain the nuance and say we took the step to suspend it ourselves to act in good faith. Or something like that.” Jansen responds with the proposed edited language, “OPM has declined to approve a new Delegation of Investigative Authority to conduct background investigations until USAGM addresses the listed improvements.”	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0176	H56114-0034-023191	11/13/2018	Jansen emails Lennon draft talking points regarding the Personnel Security Division for an upcoming presentation to the Board of Governors. Lennon forwards the talking points to Fechter and Luer.	Awareness of and Responses to Security Program Lapses						
ML0177	H56114-0034-023192	11/13/2018	Draft talking points regarding the Personnel Security Division for an upcoming presentation to the Board of Governors	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0178	H56114-0034-023210	11/13/2018	Lennon emails Luer, Fechter and Jansen a draft response (version 3) to OPM’s draft report of its review of the Agency’s Suitability Program, saying she is incorporating edits from the week before and adding new edits and questions that need addressing first thing the next day as the GC needs to review it if it needs to go out that Friday. She re-forwards the email to Jansen the next morning saying she needs his input.	Awareness of and Responses to Security Program Lapses						
ML0179	H56114-0034-023211	11/13/2018	Version 3 of the draft Agency response to OPM’s review of the Agency’s Suitability Program. Cover email is 11/13/18. Date on draft document, which is version 3, is 11/16/13. Document includes edits and comments from Lennon.	Awareness of and Responses to Security Program Lapses						
ML0180	H56114-0096-0086545	11/13/2018	Lennon emails Walsh, copying Jansen, draft talking points regarding security updates. Walsh responds and asks, “Did OPM really temporarily suspend our delegated authority to conduct investigations? I thought we weren’t sure on that based on the fact that that the report from them is still draft, etc. I just am not sure we should tell the Board that unless we are sure it was suspended... If we aren’t sure, we could just say we decided to operation as if it was suspended to show good faith.” Walsh forwards the talking points to Kligerman. On 11/14/2018, Kligerman provides edits to the talking points.	Awareness of and Responses to Security Program Lapses		X	X		X	
ML0181	H56114-0034-023223	11/14/2018	Fechter emails Jansen, copy to Lennon and Luer, draft management directives in connection with the Suitability Program review. Lennon forwards the email and attachments to Cheng saying: “I believe your edits have been incorporated and other changes made in response to your suggestions.”	Awareness of and Responses to Security Program Lapses						
ML0182	H56114-0034-023224	11/14/2018	Management Directive on the Agency’s Suitability Program, prepared by Lennon, addressing “Practices to Begin Immediately,” with edits and comments from Fechter and Cheng.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0183	H56114-0034-023225	11/14/2018	Management Directive on the Agency’s Suitability Program, prepared by Lennon, addressing “Practices to Cease Immediately,” with edits and comments from Fechter and Cheng.	Awareness of and Responses to Security Program Lapses						
ML0184	H56114-0096-0086546	11/14/2018	Redlined version of talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
ML0185	H56114-0096-0086548	11/14/2018	Draft talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
ML0186	H56114-0032-007998	11/15/2018	Memo from Lennon to OMS/S Staff instructing Security staff under the direction of Jansen to ensure that various activities are being performed or will begin immediately, including ensuring the use of e-QIP for all investigation requests, using the current SF86 and correct security forms, referring all cases with potential material, intentional false statements or deceptions to OPM, among other things.	Awareness of and Responses to Security Program Lapses						
ML0187	H56114-0032-008001	11/15/2018	Lennon sends memo to OMS/S Staff regarding activities that must cease immediately, including requiring applicants and employees to re-sign security form releases upon EOD, revoking and destroying PIV credentials when employees undergo re-investigation, requesting information for background investigations which goes beyond the scope of the Federal Investigative Standards, and use of the SF-86 prior to making an offer of employment.	Awareness of and Responses to Security Program Lapses						
ML0188	H56114-0034-011937	11/15/2018	Fechter emails Lennon about USAGM’s request to OPM for an extension to comply with 5 CFR 1400 and notes “we never did author an action plan for our full compliance to 1400 because we never intended to deviate from the status quo”.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0189	H56114-0034-023262	11/15/2018	Lennon emails Luer and Fechter asking if they could review a clean version of the Agency’s response to the OPM report on the Suitability Program, to confirm she captured Jansen’s and Cheng’s comments, noting that Cheng “is most concerned about specificity regarding time frames.” Lennon says she “punted on some of them” and needs Jansen’s input on others.	Awareness of and Responses to Security Program Lapses						
ML0190	H56114-0034-023351	11/16/2018	Lennon emails Fechter and Luer a revised version of the Agency response to OPM’s Suitability Program report that she had asked they review clean to ensure it captures Jansen’s and Cheng’s comments, noting this version has minor changes to reflect answers from Jansen regarding Cheng’s questions and saying they should use this version (version 5).	Awareness of and Responses to Security Program Lapses						
ML0191	H56114-0007-058500	11/20/2018	Lennon forwards to Walsh and Kligerman Mower’s email that Cobb later responds to on 11/23/18 as summarized on the timeline. Mower’s email covers her complaints about Tran’s promotions and her being pre-selected for an SES position. Walsh replies, “Wow, she’s really out of line.”	Performance Issues						
ML0192	H56114-0034-012232	11/20/2018	Rios forwards Lennon a house announcement reminding employees to schedule their ‘use or lose’ leave, including a note to supervisors that “once leave is approved, it may only be cancelled as a result of an unforeseen operational demand beyond the Agency’s control and of such importance as to preclude the use of scheduled annual leave. Normal workload, inadequate staffing, absence of other employees, and poor leave planning do not constitute and are not justifications for cancelling scheduled leave.” Rios asks Lennon how he can avoid forfeiting unused leave. Lennon says to schedule the leave and submit it for her approval; she will approve it and later cancel it, so it can be restored for the next year.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0193	H56114-0034-023282	11/20/2018	Lennon emails OPM, submitting USAGM’s response to the 37 recommendations from the 10/22/2018 OPM report.	Awareness of and Responses to Security Program Lapses						
ML0194	H56114-0034-023283	11/20/2018	Letter from Lansing to OPM regarding review of USAGM’s personnel suitability program says that USAGM has ceased all investigative activities, but intends to seek a new MOU for delegated investigative authority after correcting the deficiencies that have been identified.	Awareness of and Responses to Security Program Lapses						
ML0195	H56114-0034-023284	11/20/2018	Response to recommendations in OPM draft report states that USAGM staff have begun using the Position Designation Tool, as required by OPM, but “While moving forward to comply fully with this recommendation and given the agency’s unique mission in the foreign affairs / national security space, USAGM respectfully reiterates the concerns it expressed regarding position sensitivity designations under 5 C.F.R. 1400 in its letter dated May 8, 2018 to OPM and the Office of the Director of Intelligence. To date, USAGM has not received a response to this letter.”	Awareness of and Responses to Security Program Lapses						
ML0196	H56114-0034-023285	11/20/2018	Management Directive attached to USAGM response to OPM, regarding “Activities to Cease Immediately”, including: employees re-signing security releases; revoking/destroying PIV when employee is re-investigated; investigations that go beyond the scope of investigative standards; and use of SF-86 unless USAGM is granted an exception	Awareness of and Responses to Security Program Lapses						
ML0197	H56114-0034-023286	11/20/2018	Management Directive attached to USAGM response to OPM report, regarding “Activities to Begin Immediately”, including: ensure use of e-QIP; use of current SF-85; report all suitability determinations to OPM; update internal processes; conduct suitability adjudication on closed investigations; and adhere to SOP guidelines.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0198	H56114-0007-036772	11/23/2018	Cobb forwards to Lennon an email from Mower on 11/20/18 that alleges “More Mismanagement/Abuse in the Front Office of USAGM”, asking if Cobb can pass it along to OIG, saying she will try to reach out to OPM. Mower notes she’s a finalist for SES Deputy Director and questions why they are opening a third SES position and alleges that Tran has been pre-selected for the position and that “many in the building” are asking why and if it’s because Tran has been “covering for [Lansing] on various illegalities” including Premium Travel for Ullah and long summer telecommuting. She claims Tran moved from GS-13 to GS-15 without advertising and is now going to get an “undeserved” SES position, the duties of which are “basically secretarial tasks”. Cobb in her email to Lennon says that “it will look pretty bad” for Lansing and the CEO’s office if Mower goes to OIG on this. Cobb thinks the position is a weak SES though HR “did the best [it] could” in classifying the position. She notes employees have come to her office saying that Tran “has finally figured out a way to get her SES” and OIG might see the new position is “very, very similar” to Tran’s current position. She notes that Tran “has not competed for any of her promotions” and explains her promotion history and the role of Lansing. She says that Walsh said Lansing was concerned but they would make sure everything was done legally. Cobb says that she is afraid that if OIG were to look at this, it would reinforce the April 16, 2018 OIG report on all the complaints about the Agency’s hiring practices. Lennon forwards the email to Walsh on 11/27/18.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0199	H56114-0007-058136	11/28/2018	Walsh responds to Lennon’s email from 11/27/2018 forwarding Cobb’s email from 11/23/18 on Mower’s complaints about Tran’s promotions and her being pre-selected for an SES position. He says he has never had the impression this was pre-selected and he doesn’t want to be a part of anything against regulations so he asks if they can discuss. He expressed his annoyance at Cobb’s comments though he notes he likes Cobb, because he has had multiple conversations with HR about the position and this never came up. He says they could have tweaked the approach if they had raised it but doesn’t want to now because he doesn’t want to lend credence to Mower’s narrative. He calls the position “very legitimate” and one Lansing wants to fill through a merit competition. He explains in detail why they created the role and why it merits the SES level. He then adds individualized reactions /rebuttals using in-line text, to each of Cobb’s points. He says that Mower’s story is unfair to Tran, who has done nothing wrong.	Performance Issues						
ML0200	H56114-0034-021958	11/29/2018	Cobb re-forwards her 11/23/18 email to Lennon commenting on Mower’s complaints about Tran’s promotions and the SES position Tran has allegedly been pre-selected for, back to Lennon, noting that she (Cobb) takes it that, in receiving the signed SF-52 for the Executive Director recruitment, signed by Walsh and Lansing, Cobb’s email and issues “had no bearing on them whatsoever” and says it would be helpful if Walsh could send her something official indicating that they are to move forward with the recruitment despite Cobb’s concerns but Cobb is sure that won’t happen. She notes that this probably isn’t the last they’ll hear from Mower or the “quite a few” who feel as Mower does.	Performance Issues						
ML0201	H56114-0034-021515	12/11/2018	Lennon email Fechter, Luer, and Rosenholtz, asking if they have looked at the latest CEO briefing document and asking if they can get together to discuss it. Fechter responds attaching the document with his comments added.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0202	H56114-0034-021516	12/11/2018	Draft CEO briefing document on personnel security mentions the loss of delegated authority and outlines the costs of different investigation service options.	Awareness of and Responses to Security Program Lapses						
ML0203	H56114-0034-021518	12/11/2018	Jansen emails Lennon, copy to Rosenholtz, Luer, and Fechter that he had a lengthy discussion with James McLaren (GC Office) and “[l]ong story short, he informed me that David Kligerman’s opinion allows for the investigation of Grantee personnel” but “[t]hat said, it looks like [they] can revert to the initial format with two possible options” - continue as is but with a contractor handling the NAC investigations, or evaluate each Grantee position for investigation under the Tier. He adds: “Needless to say, it bothers me a bit that this was the outcome of a conversation in which David was not privy; however, either way we can move forward with this issue.” He says that McLaren was asked to provide a written opinion, which will follow ASAP. Fechter responds with a file “attempt[ing] to include the option of having SEC do all the Federal staff while outsourcing grantee investigations.”	Awareness of and Responses to Security Program Lapses						
ML0204	H56114-0034-022023	12/13/2018	Lennon receives a draft USAGM enterprise risk profile, including risk statements for HR, Security, and Contracts, and forwards it to Rosenholtz for input.	Awareness of and Responses to Security Program Lapses; Performance Issues						
ML0205	H56114-0034-022024	12/13/2018	Draft USAGM risk statement related to security: “Due to USAGM not acting under proper delegated authority as well as its lack of access to intelligence records and outdated processes and systems, there is a backlog in security background investigations and numerous deficiencies (as identified in OPM’s and ODNI’s 2018 program review of USAGM’s personnel suitability program), posing risks to the security of the Agency’s building, systems, and personnel, as well as the national security and the integrity and efficiency of USAGM’s personnel vetting program.”	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0206	H56114-0007-035446	12/14/2018	Cobb emails OPM, copy to Lennon, Walsh and others, the Agency's response to OPM's evaluation of delegated examining operations at the Agency.	Awareness of and Responses to Security Program Lapses						
ML0207	H56114-0065-001454	12/18/2018	Lennon emails OPM Loss asking if OPM has had a chance to review USAGM's 11/20/2018 security program audit response.	Awareness of and Responses to Security Program Lapses						
ML0208	H56114-0077-015335	1/30/2019	Fechter emails Jansen, Cobb, and Lennon a list of 27 USAGM commitments in response to OPM regarding its personnel suitability program review, requesting completion dates. "The real meat and potatoes is: Re-evaluating the position sensitivity of our current employees and creating an accompanying PDR (Position Designation Record) for each..."	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0209	H56114-0007-055812	2/1/2019	Cullo emails Schuck her information for a transfer to the Agency, asking if he can expedite. Walsh responds to Schuck, copying Lansing and Lennon, saying: “Wow. Bold move by Diane. We can discuss Monday. + Marie”. Lennon responds to just Walsh: “Huh? Did we know this was in the works? As always, let me know what you need from me and my team.” Walsh responds on 2/4/19, copying Kligerman: “Yea very strange. We didn’t know it was in the works. I think it will be fine for multiple reasons, but we can discuss. John told Matt Schuck there’s no way she’s coming here under his watch, and Matt has gone back to Diane and told her that John’s position hasn’t changed. PPO hasn’t actually asked Matt to do anything, so this could just go away. But we’ll see. It would be really helpful though if someone in OMS or GC could pull together whatever regulations there are, I assume from OPM or OMB, regarding Schedule Cs and when agencies have to take them onboard, what flexibility do we have in accepting or rejecting names given to us, how does this work given that we’re run by a bipartisan Board, etc. (which is the same argument we teed up for OPM w/t SES positions, and OPM has seemed to side with us). I’ve only ever seen the regs for SES schedule Cs, not actually GS-level, which I think are more applicable here.”	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0210	H56114-0007-055597	2/8/2019	VOA job candidate Craig emails Walsh about her experience with USAGM HR, during which she was told she was hired, then told she would have to wait 90 days to receive an offer letter, and at the end of 90 days was told she had to start the process over with a new job posting. Walsh forwards the email to Lennon, disclosing that Craig is a friend and asking if Lennon can find out what happened. On 2/13/2019, Lennon tells Walsh: “Unraveling this one was indeed a challenge, and honestly I still feel like I’m not getting the straight story for all involved. The bottom line, however, is that she does not have to restart the process. If her justification package for superior qualifications is approved, she can be appointed to the position she originally applied for and was apparently selected for in SCA.” Walsh forwards the email to his personal email account.	Performance Issues						
ML0211	H56114-0007-055615	2/8/2019	In an email discussion between Lennon and Walsh on whether she has time to attend an offsite planning session with senior management, she explains why she may be too busy, noting as one reason: “We are also working hard to bring Security processes into compliance in order to go back to OPM with a report that will hopefully allow us to regain our authority for investigations. Those changes involve changes in processes and policy in both HR and Security. And, as you know, the usual issues in the HR department have been exacerbated (at least for now) given the vacancy that just occurred in a key management position. Carroll [Cobb] can’t do it by herself and my hands-on assistance is going to be necessary for several weeks, at least.”	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0212	H56114-0009-049465	2/9/2019	In an email chain about hiring an employee for VOA, Lennon is told: “Bill Baum informed me this week that HR has decided this position will have to be canceled and re-posted with new language. All because Jill requested terms above and beyond those that the agency originally proposed for the position. HR indicated from the start that Jill would need to be separated from the agency for a period of 90-days before she could be on boarded with the terms she requested. Everyone understood and accepted that. What Bill is telling me now is that HR never should have been negotiating terms with Jill during that 90-ay window. Not only were they negotiating with her, but they sought and received justification from me, and indicated to everyone that Jill would be all set after waiting the 90-days. Jill was in communication with me all along, mostly indicating that HR’s communication with her was confusing, frustrating and not very timely. But they were clearly negotiating terms with her, and she indicated acceptance to them. Now...we have to start all over?” Lennon responds asking who Jill was dealing with in HR. Other emails show that Jill is Jill Craig, a contact of Walsh’s.	Performance Issues						
ML0213	H56114-0009-026390	3/18/2019	Rosenholtz emails Lennon, Luer, and Fechter the OIG Draft Report: Inspection of USAGM Governance, which OIG sent that day.	Performance Issues						
ML0214	H56114-0007-053941	3/19/2019	Walsh emails the Board of Governors, copying Lansing, Kligerman, Lennon, and others about an OIG report examining USAGM Governance. There are five recommendations related to internal processes as well as concerns about editorial independence due to NDAA changes.	Performance Issues						
ML0215	H56114-0007-027404	3/26/2019	OPM emails Lennon, Lansing, and HR director Cobb a letter regarding USAGM’s response to OPM delegated examining unit evaluation.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0216	H56114-0007-027405	3/26/2019	OPM letter to Lennon noting USAGM has satisfactorily addressed the required actions related to their delegated examining unit. The CL raises two points about USAGM still using outdated practices; and the SOP 212-1 related to pay for qualified EEs	Awareness of and Responses to Security Program Lapses						
ML0217	H56114-0007-054082	3/27/2019	Tran forwards to Walsh a letter from OPM regarding USAGM’s response to the OPM delegated examining unit evaluation, “Marta’s case is in the attached response.” Walsh replies that he is speaking with Lennon and Kligerman later and asks if Tran would like to join. Later, he tells Tran, “Just fyi – we fixed this”.	Awareness of and Responses to Security Program Lapses						
ML0218	H56114-0010-006582	4/29/2019	Rosenholtz emails Luer, Lennon, and Fechter about new Executive Orders related to background checks. He notes the transfer from NBIB to DCSA may slow their investigative work, and that USAGM would need delegated authority from OPM and ODNI to resume conducting its own background investigations.	Awareness of and Responses to Security Program Lapses						
ML0219	H56114-0007-020857	5/15/2019	Lennon emails Nweke, copying Walsh, a summary of OMS’s response plan for the enterprise risk profile.	Awareness of and Responses to Security Program Lapses						
ML0220	H56114-0007-020858	5/15/2019	Summary risk response plan for OMS areas of responsibility in the enterprise risk profile says that USAGM has ceased conducting its own security background investigations, developed a corrective action plan to address to address issues raised in the OPM/ODNI audit, and will seek renewed delegated authority when more progress has been made on corrective actions.	Awareness of and Responses to Security Program Lapses						
ML0221	H56114-0009-045524	6/4/2019	Rosenholtz emails Lennon a draft risk mitigation summary requested by Nweke for the enterprise risk management profile.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0222	H56114-0009-045527	6/4/2019	Draft risk mitigation summary says that OMS will measure its success in mitigating the security risks identified in the enterprise risk management profile through ongoing contact between the OMS director and the OPM audit team, as well as tracking the relative costs and timeliness of the new Avue system to ensure that it actually provides the improvements that are anticipated.	Awareness of and Responses to Security Program Lapses						
ML0223	H56114-0007-014175	7/8/2019	Andross emails Powers, Tran and others, with copies to Walsh, Lennon, and Cheng, tasks assigned in response to an OIG inspection of USAGM governance. Tran and Milko are responsible for a process for more efficient executive decision-making; Powers is responsible for a policy to meet statutory requirements related to VOA editorials. In addition, HR is responsible for enforcing the completion of annual performance reviews.	Performance Issues						
ML0224	H56114-0009-010418	7/19/2019	HR director Cobb forwards Lennon an LER employee’s weekly report including complaints raised by Mower that (1) Kazmi behaved inappropriately toward Mower, (2) Kazmi was hired because of his relationship with Ullah, (3) an SES position description has been tailored to Powers, (4) Powers was hired by Ullah at too high a GS level and suspiciously fast, in order to ‘burrow’ a political appointee into a civil service job.	Performance Issues						
ML0225	H56114-0001-058637	7/30/2019	Letter from ODNI to Lansing enclosing a draft report on ODNI’s 2018 re-assessment of USAGM’s personnel security program. The letter states that USGM has failed to address recommendations made in 2015, and must cease conducting national security background investigations and adjudications. The attached report notes that BBG/USAGM’s delegated authority to conduct investigations expired in 12/13/2012. On 8/2/2019, Tran forwards the letter and report to Jansen, Lennon, and Walsh. On 8/5/2019, Walsh forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0226	H56114-0007-049296	8/2/2019	Development employee Mower emails HR director Cobb (with a copy to Lennon), asking why she was not interviewed by the Executive Resources Board (ERB) for the Executive Director position, and why there has been no House Announcement regarding the selectee. Cobb responds that it is not the role of the ERB to conduct interviews, and there is no requirement to issue an announcement. Lennon forwards the communication to Walsh. On 8/5/2019, Walsh responds that he agrees with Cobb, and that Mower also asked him the same questions.	Performance Issues						
ML0227	H56114-0009-009373	8/2/2019	Fechter emails Lennon regarding the draft ODNI report, “all those conversations that [Jansen] was/is having with ODNI are really paying off! They don’t want his team doing investigations OR adjudications.”	Awareness of and Responses to Security Program Lapses						
ML0228	H56114-0009-009375	8/2/2019	Rosenholtz emails Lennon regarding the draft ODNI report, asking “do we have any plan to, ‘validate that prior national security adjudications were conducted according to applicable guidelines and policy?’” He also comments that Jansen took an argumentative tone with ODNI.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0229	H56114-0077-010704	8/2/2019	Tran emails Jansen (with a copy to Lennon and the CEO office) regarding a draft report from ODNI on the 2018 reassessment of USAGM’s personnel security program. USAGM is requested to stop conducting national security background investigations and to have all individuals investigated since the 2012 expiration of investigative authority re-investigated by the National Background Investigations Bureau (NBIB), and to stop conducting national security adjudications until personnel are properly trained. Jansen responds that USAGM has already started having NBIB conduct its background investigations, and that he has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators. On 8/5/2019, Walsh responds requesting a meeting to discuss the response to OPM/ODNI and grantee background checks.	Awareness of and Responses to Security Program Lapses						
ML0230	H56114-0077-010681	8/5/2019	Lennon emails Jansen and others requesting information for a briefing to Walsh on the OPM/ODNI reports and grantee background investigations.	Awareness of and Responses to Security Program Lapses						
ML0231	H56114-0007-013624	8/6/2019	Lennon emails Walsh a draft protocol to address grantee personnel security issues.	Awareness of and Responses to Security Program Lapses						
ML0232	H56114-0007-013625	8/6/2019	Explanatory background document for draft protocol to address grantee personnel security states that grantee background investigations have all but ceased because of issues including GDPR and the OPM/ODNI audit. Article X of the grant agreements calls for a written protocol addressing background investigations for grantee positions. But no Article X protocol has been finalized with any grantee.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0233	H56114-0007-013626	8/6/2019	Draft personnel security protocol per Article X of the grant agreements outlines background investigation requirements for grantee positions.	Awareness of and Responses to Security Program Lapses						
ML0234	H56114-0009-047158	8/6/2019	In response to Lennon’s request for information to brief Walsh on the OPM/ODNI report and grantee background investigations, security employee Hodge clarifies that ODNI has not given written confirmation that USAGM is permitted to continue to perform adjudications, but Hodge will ask for an email confirming a prior telephone conversation.	Awareness of and Responses to Security Program Lapses						
ML0235	H56114-0009-056375	8/7/2019	Lennon and her staff draft a letter to ODNI responding to the personnel security program re-assessment.	Awareness of and Responses to Security Program Lapses						
ML0236	H56114-0009-056376	8/7/2019	Draft letter to ODNI regarding USAGM personnel security program reassessment states that ten of eighteen recommendations have been addressed and USAGM has created a corrective action plan to comply with the remaining eight.	Awareness of and Responses to Security Program Lapses						
ML0237	H56114-0009-056530	8/7/2019	Fechter emails Lennon a spreadsheet tracking the status of recommendations from the OPM/ODNI reports, finding that eight ODNI recommendations remain outstanding. Jansen is the action owner of the open recommendations.	Awareness of and Responses to Security Program Lapses						
ML0238	H56114-0009-056532	8/7/2019	Spreadsheet tracking the status of recommendations from the OPM/ODNI reports includes required actions not yet completed.	Awareness of and Responses to Security Program Lapses						
ML0239	H56114-0007-013644	8/13/2019	OGC McLaren emails Tran (with a copy to Kligerman), approving the draft response to the ODNI personnel security program reassessment as legally sufficient.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0240	H56114-0007-014080	8/13/2019	CEO office employee Milko emails ODNI a letter responding to the ODNI reassessment of the USAGM personnel security program, with a copy to Lennon, Jansen, and the CEO office.	Awareness of and Responses to Security Program Lapses						
ML0241	H56114-0007-014081	8/13/2019	Letter from Lansing to ODNI states that USAGM has transitioned its investigative functions to NBIB, and encloses a response to the ODNI recommendations along with adjudicator training certificates.	Awareness of and Responses to Security Program Lapses						
ML0242	H56114-0009-091156	8/16/2019	HR department weekly report to Lennon includes the Mower complaints regarding Powers and Kazmi previously forwarded to Lennon on 7/19/2019.	Performance Issues						
ML0243	H56114-0007-049178	8/19/2019	Walsh emails Lennon asking if there has been any response to the letter sent to ODNI on 8/13/2019. Lennon responds that a speedy response is unlikely, but she will have security staff follow up to make sure the letter was received and confirm that USAGM is permitted to continue with national security adjudications.	Awareness of and Responses to Security Program Lapses						
ML0244	H56114-0007-012939	8/22/2019	OPM letter to Lansing, copying Lennon and Jansen, with attached report on USAGM Suitability Program notes that USAGM failed to take action on recommendations from 2014 review and lacks proper delegated authority to conduct background investigations. Lansing forwards this report to Walsh upon receipt.	Awareness of and Responses to Security Program Lapses						
ML0245	H56114-0007-048709	8/22/2019	OPM Miltner emails Lansing, copying Lennon, Jansen, Johns, and several others from OPM, attaching a copy of OPM's final report on USAGM's personnel suitability program. Lansing forwards the email and attachment to Walsh and states, "I have no idea what this is." Walsh responds that this is the final report from OPM and he would fill Lansing in the following day. "We knew this was coming and I think we're in good shape to respond."	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0246	H56114-0009-047506	8/22/2019	OPM emails Lennon and Jansen (as well as others) stating they conducted a program review of USAGM personnel suitability program and found no corrections had been made based on the 2014 review. Found 38 deficiencies that pose potential risks to national security.	Awareness of and Responses to Security Program Lapses						
ML0247	H56114-0007-013124	8/26/2019	USAGM response to OIG governance inspection recommendations says that USAGM has taken steps to improve executive decision-making by developing a new internal staffing structure and new internal communication processes; has circulated a draft VOA editorial policy now in final review at the State Department; and has established a team within HR to enforce the completion of annual performance reviews.	Performance Issues						
ML0248	H56114-0007-011146	9/5/2019	Tran emails Cobb, copying Walsh and Lennon, about an updated position description for Carew. Tran asks if it can be made effective “either Sept 1 or Sept 8”. Cobb responds that she has problems with “backdating actions before HR receives the paperwork” but September 8 is not a problem.	Performance Issues						
ML0249	H56114-0009-091148	9/6/2019	HR department weekly report to Lennon includes the Mower complaints regarding Powers and Kazmi previously forwarded to Lennon on 7/19/2019.	Performance Issues						
ML0250	H56114-0007-048052	9/9/2019	Third-party investigation into nepotism at OCB sent to Lennon, Walsh and Tran. Conclusion (p.14) says Director Regalado violated nepotism policy.	Performance Issues						

APPENDIX A – LENNON TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁷⁵					
					T ⁷⁶	R ⁷⁷	D ⁷⁸	H ⁷⁹	J ⁸⁰	IT ⁸¹
ML0251	H56114-0075-0020576	9/23/2019	Mower emails Cobb, copy to Kligerman, Lennon and Turner, in response to Cobb’s response on the status of Mower’s application for Chief Strategy Officer and says she (Mower) is assuming the Selecting/Hiring Official will follow best practices of impartiality and will follow recommendations on structured interviews. She notes the status of the four SES positions she applied to in the past and was referred for. She notes that Tran’s position was filled with no interview and that for another, she (Mower) was never interviewed but the job is still not filled.	Performance Issues						
ML0252	H56114-0060-003003	9/25/2019	ODNI emails Lennon and Jansen the final SecEA SNAP report.	Awareness of and Responses to Security Program Lapses						
ML0253	H56114-0060-003004	9/25/2019	Letter from ODNI to Lansing and attached final report says USAGM shall immediately cease conducting national security background investigations, notes the 2012 expiration of delegated authority, and finds that USAGM did not correct any of the 2014 recommendations.	Awareness of and Responses to Security Program Lapses						
ML0254	H56114-0009-047917	10/4/2019	Lennon’s draft performance review submitted to Tran. On first two pages Lennon describes her handling of the Security Audit: “As a result of Ms. Lennon’s focus and direction, when OPM and ODNI return early next year to review the Agency’s progress in correcting this and other deficiencies, we will be in a position to satisfy these oversight bodies and receive a clean audit.”	Awareness of and Responses to Security Program Lapses						
ML0255	H56114-0009-046538	10/29/2019	OCR McDay emails Lennon about lack of response from HR on data requests. Lennon responds that she is willing to meet with OCR and HR “in an attempt to resolve the issue.”	Performance Issues						

APPENDIX A – LENNON TIMELINE

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ML0256	H56114-0009-091792	11/7/2019	In November 2019, Brady apologizes to retiring employee Hardegen for the time it is taking to process his retirement. On 1/9/2020, Lennon follows up with HR employee Jackson about the status of the delayed paperwork. Lennon states “I apologize if it seems like I’m micromanaging this effort, but we MUST get it right and unfortunately I’m new to the issue and process. Please bear with me.” On 1/10/2020, Lennon asks Johns if he understands the sequencing of events. She states “I appreciate that [Jackson] feels like she’s doing everything she can but we are beyond that level of interaction. To put it more clearly, that level of interaction has failed miserably and we all have egg on our faces. Again, please intervene and begin making phone calls, if you haven’t already.” Johns states “I understand and I’m in the process of calling now. Whenever I have anything to report I will let you know first.”	Performance Issues						
ML0257	H56114-0009-060282	11/13/2019	Fechter emails Lennon with topics from a security office meeting. Lennon responds that they also discussed “How can we get an infusion of funding to help clear up backlog of cases waiting for investigations? Only can send around 3 a month because that’s the limit of funding available”.	Awareness of and Responses to Security Program Lapses						
ML0258	H56114-0009-031872	12/14/2019	Meeting scheduled for 11:30-12:30 on 12/14/19, by Luer, for Lennon, Cobb, Jansen, Fechter and Rosenholtz to discuss the new onboarding process resulting from the changes to the Agency’s personnel security program. Agenda items include: Determination of Position Sensitivity (via OPM’s PDT) and Position Designation Records “[and c]oming to consensus on USAGM application of OPM’s guidance”; Identification of PDs for prioritization; Setting EOD dates in concert with SEC; and SEC performing suitability determination and “(getting HR out of the process of reviewing SF-68s and SF-85s)”.	Awareness of and Responses to Security Program Lapses						

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ML0259	H56114-0009-047733	12/18/2019	Lennon asks McDay, with Reid and Luer copied, for information concerning each EEO complaint currently being handled and their timeliness in meeting EEO-mandated timeframes. Reid replies that processing delays “is one of the many concerns I’ve been wanting to discuss with you regarding complaints.” Lennon asks for the information again and states that she can speak with Reid and McDay in the new year because she wants to take time off over the holidays and as an over-booked schedule. Reid replies with the information requested.	Performance Issues						
ML0260	H56114-0009-095431	12/30/2019	Cheng emails Dupree with Kligerman and Cobb copied, stating that she had spoken to Cobb and she suggested to reach out to her if they wanted to start working on postings for senior level OGC slots that they have heard OPM has approved and sent to OMB for approval. Cobb forwards the email to Lennon, stating that her conversation with Cheng reinforced why she is leaving. She stated that Kligerman is pushing to have vacancy announcements ready to go when approvals come in, which they had not yet been by OPM/OMB. Cobb felt that this added to HR’s workload and didn’t make sense at the moment. Lennon stated “More to look forward to...arrgghh!”	Performance Issues						
ML0261	H56114-0006-052301	4/7/2020	OCEO executive assistant Cummings emails presentation material on Grantee Personnel Background Investigations and a document on Overview of Grantee Investigation Requirements to recipients including Turner, Lennon, and Jansen. Turner forwards it to his personal email.	Awareness of and Responses to Security Program Lapses; Performance Issues						
ML0262	H56114-0006-052302	4/7/2020	Presentation on Grantee Personnel Background Investigations outlines the criteria for tiered and non-tiered investigations of grantee personnel.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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ML0263	H56114-0096-0144397	4/14/2020	Lennon emails Walsh (with a copy to Kligerman) regarding RFE background investigations, relaying Jansen’s opinion that most RFE staff could be investigated at a Tier 1 level, and attaching an informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement.	Awareness of and Responses to Security Program Lapses						
ML0264	H56114-0096-0144398	4/14/2020	Informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement states that evaluation of position descriptions will likely lead to many journalist positions being designated national security sensitive, requiring a tiered investigation.	Awareness of and Responses to Security Program Lapses						
ML0265	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						
ML0266	H56114-0009-079017	5/13/2020	OGC Cheng emails Jansen (copying Lennon and Kligerman) suggested revisions to his two draft memos on grantee background investigations.	Awareness of and Responses to Security Program Lapses						
ML0267	H56114-0009-079019	5/13/2020	Draft memo from Jansen regarding grantee background investigations questions the justifications given for USASGM’s 5 CFR 1400 waiver request.	Awareness of and Responses to Security Program Lapses						
ML0268	H56114-0009-096902	6/3/2020	Lennon emails HR deputy director Kotz asking if he thinks an unsolicited phone call made by USAGM employee Mower to a State Department employee to criticize OTF management and funding merits disciplinary action. Kotz replies that he thinks not, save perhaps counselling not to offer personal opinions as those of USAGM. Lennon agrees.	Performance Issues						

APPENDIX A – LENNON TIMELINE

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ML0269	H56114-0006-049645	6/5/2020	Turner asks Lennon to process two special act awards for Tran and Walsh at \$2k a piece.	Performance Issues						
ML0270	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
ML0271	H56114-0007-042295	6/9/2020	Lennon emails Walsh regarding hiring and states “Those entries that are highlighted in yellow . . . The last item which is not on the list is the last minute accretion promotion request we received from Oanh for Armanda to a GS-13. I don’t know how you feel about this one, but Grant approved it prior to Mr. Pack’s appointment and we could make it happen with the next pay period if you would like. “	Performance Issues						
ML0272	H56114-0007-065131	6/16/2020	Walsh messages Tran, “Marie told me she has not done anything with Armanda’s promotion. Haven’t discussed with her why, but told her the three of us should discuss tomorrow what to do. I support it, so not sure why it stopped. Maybe Grant never signed it?”	Performance Issues						
ML0273	H56114-0007-065138	6/16/2020	Walsh messages Lennon, “oanh just asked me: do you know what happened to armanda’s promotion? did that go through? Oanh said she noticed it wasn’t on the Tier 1/2 spreadsheet, which makes me think it went through under Grant’s approval, but do you know?”	Performance Issues						

APPENDIX A – LENNON TIMELINE

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ML0274	H56114-0060-005009	7/17/2020	Email discussion between Luer and Lennon about OPM’s July 2020 report on the Agency’s Suitability Program. They discuss having a call to start to gather info for responding and Cullo’s questions about the report. Lennon says that she “had no idea this was coming up” and she thought they had done a good job “answering the mail on this one”. Luer writes: “Holy cow!” in response to OPM pulling the Agency’s delegated adjudicative authority, saying: “I remember asking at some point if our adjudicative authority was at risk of being pulled and was told no.”	Awareness of and Responses to Security Program Lapses						
ML0275	H56114-0060-005478	7/17/2020	Lennon forwards to Walsh the July 2020 OPM Suitability Program report, who responds: “Wow I was wondering when this follow up report would come out. Not good. Let me know how I can help.”	Awareness of and Responses to Security Program Lapses						
ML0276	H56114-0030-023607	7/20/2020	Lennon emails Cullo, copy to Newman, a status update and initial response to questions on the July 2020 OPM Suitability Program report, noting that she has had “several very serious conversations with [her] staff” and agreeing that the recommendations are critical. She provides detailed answers on some issues. She then forwards the email she had sent, to Walsh as an FYI. He responds that her response is “fantastic” and that he “also hope[s] [they] can underscore with Diane [Cullo] that this goes back years (at least 2012) and that the agency has really focused on this and has come a long way.”	Awareness of and Responses to Security Program Lapses						
ML0277	H56114-0032-027839	7/21/2020	Meeting scheduled for end of day by Luer, requesting attendance of Lennon, Jansen and others, to discuss the suitability report follow-up.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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ML0278	H56114-0060-001182	7/21/2020	Lennon requests Rosenholtz’s feedback on an email she sent the day before to Cullo, updating her on the review of investigations conducted under expired delegated authority and requiring reinvestigation. Her list includes 178 investigations where no reinvestigation is required for the Grantee. Rosenholtz responds that he doesn’t think they can say the 178 do not require reinvestigation because they might once the grant agreement is updated to include the Article X protocol and that it would be more accurate to say the investigations cannot be reinitiated right now until the grant agreement is updated.	Awareness of and Responses to Security Program Lapses						
ML0279	H56114-0032-022974	7/23/2020	Rosenholtz emails Lennon, Luer, Fechter and Jansen, suggesting creation of a timeline to show how they prepared Article X for the grant agreement, OGC “pulled those agreements back,” how RFE/RL “pushed back”, and that the CEO Office “requested info on additional flexibilities”. On 7/24/2020 Rosenholtz emails again attaching a draft timeline.	Awareness of and Responses to Security Program Lapses						
ML0280	H56114-0032-026797	7/23/2020	In response to Cullo’s email earlier in the day asking questions of Lennon’s iterative reports and information responding to the July 2020 OPM Suitability Program report, Lennon provides internal reactions to Jansen and others, Luer provides his comments, and then Jansen’s adds his. On the 178 cases where investigation has not be re-initiated because the subject is a grantee employee (Cullo had questions about that), Lennon says the issue is complicated and explains why. She explains the process by which the former way of investigating these subjects became outdated and her team responded by proposing procedures that needed to be incorporated into the FY2020 grant agreements before implemented, but were still under review by OGC.	Awareness of and Responses to Security Program Lapses						

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ML0281	H56114-0043-039428	7/23/2020	Walsh emails Lennon: “Hello from leave. I just saw the most recent CEO statement. Is that the OPM security audit? Are you doing okay?”	Awareness of and Responses to Security Program Lapses						
ML0282	H56114-0055-003047	7/23/2020	Cullo emails Lennon with questions and status requests in response to Lennon’s emails with iterative reports and information from 7/20/20 and 7/21/20 responding to the July 2020 OPM Suitability Program report. One of the questions concerns the 178 investigations where Lennon says: “Grantee agreements have been updated to reflect a new investigative protocol. Coordination of new process is incomplete and requires CEO Office input.” Cullo has several other questions concerning other topics as well.	Awareness of and Responses to Security Program Lapses						
ML0283	H56114-0006-033162	7/24/2020	Kligerman emails Lennon, Jansen, and Walsh regarding the questions from Namdar on 7/17/20 about the OPM July 2020 Suitability Program report, saying that he was out most of the week on sick leave and then annual leave, and is on leave that day, but “leadership has made clear this is pressing” and Cheng, “the usual POC on this,” is out as well and he doesn’t want to bother her with it, and states: “[T]his is the first report that I have seen” and asks for the master report attached to it. Turner forwards the message to Layout, Mixson, Murchison, and Barkhamer, asking if they have information on the topic, and Barkhamer notes that he believes OPM’s reviews were one of the reasons personnel security was at the top of the FY19 USAGM Risk Profile developed by the RMC, and Nweke would have tracked remediation action plans, and it was taken off the FY20 profile since the agency was relieved of investigative responsibilities.	Awareness of and Responses to Security Program Lapses						
ML0284	H56114-0032-022975	7/24/2020	Timeline regarding OIG recommendation for a written background investigation protocol for grantees shows draft Article X of grant agreements under review from May 2018 to May 2020.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – LENNON TIMELINE

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ML0285	H56114-0075-0025877	7/24/2020	One of the many files attached to an email from Rosenholtz to Kligerman on 7/24/20 on OGC's involvement with Suitability Program issues. This attachment is an email from Fechter to Kligerman, copy to Lennon, dated 3/12/18, asking for Kligerman's review of a draft 5 CFR 1400 waiver request.	Awareness of and Responses to Security Program Lapses						
ML0286	H56114-0032-023056	7/26/2020	Newman emails Lennon, "USAGM no longer has the authority to make suitability determinations." On 7/27/2020, Lennon forwards the email to Jansen, Luer, Fechter, Rosenholtz, and Hodge. Jansen responds that read the OPM report as containing a threat to revoke adjudicative authority, but not actually doing so. Rosenholtz responds, agreeing with Jansen, but adding that they might not have all the relevant information.	Awareness of and Responses to Security Program Lapses						
ML0287	H56114-0032-026840	7/27/2020	Jansen forwards to Lennon his request to OPM for info on investigations on individuals being onboarded, and OPM's response that they have been working with Newman directly. Jansen says to Lennon: "Appears the CEO office is doing an end around. Ms. Newman went directly to Lisa Loss who runs the division in OPM that oversees delegated authority." He also notes that he sent a message to Massimo "and he apparently has provided the accounts without our authority" and "indicated that he was being 'pressured all over.'"	Awareness of and Responses to Security Program Lapses						
ML0288	H56114-0032-028938	7/29/2020	Jansen emails Lennon, copying Hodge, Luer and Fechter, and attaching draft OPM and ODNI responses.	Awareness of and Responses to Security Program Lapses						
ML0289	H56114-0032-028939	7/29/2020	Draft ODNI Report Response for Lennon's review.	Awareness of and Responses to Security Program Lapses						

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ML0290	H56114-0032-028940	7/29/2020	Draft OPM Report Response for Lennon’s review.	Awareness of and Responses to Security Program Lapses						
ML0291	H56114-0055-002596	7/29/2020	Email from Jansen to Lennon, copying Hodge discussing whether SEC has to discontinue adjudicative services. Jansen confirmed with an ODNI Assessment Officer that the Agency is under no obligation to discontinue adjudicative activities until the final report is issued. OPM has not responded to requests for assistance/information.	Awareness of and Responses to Security Program Lapses						
ML0292	H56114-0055-004416	7/30/2020	Luer messages Lennon saying that they should mention on the call that based on the ODNI report, OGC believes they should immediately cease adjudications for national security positions.	Awareness of and Responses to Security Program Lapses						
ML0293	H56114-0055-002595	7/31/2020	Lennon emails Rosenholtz, Fechter and Luer a draft email to Cullo and Newman with a status report on the response to the OPM/ODNI July 2020 Report and the Feb. 2020 SNAP Report. The draft email states that they have been creating CAPs to bring SEC into full compliance, but that there are two issues that need to be addressed. The first is whether they can continue adjudications. Cheng advises that they should be able to continue, but should seek clear guidance from both agencies. She is attaching an email with Jansen’s perspective. The second issue is whether the international broadcaster positions have the ability to “potentially bring about a material adverse effect upon the national security.” Lennon notes that this has been the subject of controversy for many years and she is attaching the OGC’s most recent perspective.	Awareness of and Responses to Security Program Lapses						

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ML0294	H56114-0055-002597	7/31/2020	Memo from Cheng to Luer titled “Summary of Legal Review of National Security Sensitive Designations,” stating the following: The Agency has taken the position since 1991, reiterated in 2018, that it considers all positions national security positions, designated non-critical at a minimum. Under the PDS, the Agency is asserting that the catch-all provision applies to all covered position, that some positions require Tier 5, but the majority require Tier 3 investigations. The memo notes that the determination is a management/policy decision and not a legal one. The Agency may wish to review its position descriptions to address OPM’s recommendation, to evaluate whether specific categories should be subject to Tier 1 or 2 investigations instead.	Awareness of and Responses to Security Program Lapses						
ML0295	H56114-0055-005853	7/31/2020	Cheng emails Luer, copying Fechter, attaching the draft legal summary regarding the July OPM report. Luer responds that they should consider changing the last bullet about a waiver request. “Given OPM’s insistence that we use the PDT, and considering the amount of time and resources that we have put into using the tool, I am not sure it makes sense to go down the waiver path again.” Luer forwards the email string to Lennon.	Awareness of and Responses to Security Program Lapses						

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ML0296	H56114-0058-019975	7/31/2020	Lennon emails Cullo and Newman with a status report on the response to the OPM/ODNI July 2020 Report and the Feb. 2020 SNAP Report. They have been creating CAPs to bring SEC into full compliance, but that there are two issues that need to be addressed. The first is whether they can continue adjudications. Cheng advises that they should be able to continue, but should seek clear guidance from both agencies. She is attaching an email with Jansen’s perspective. The second issue is whether the international broadcaster positions have the ability to “potentially bring about a material adverse effect upon the national security.” Lennon notes that this has been the subject of controversy for many years and she is attaching the OGC’s most recent perspective. Lennon forwards the email to Walsh on 8/3/2020.	Awareness of and Responses to Security Program Lapses						
ML0297	H56114-0058-019978	7/31/2020	Background and timeline on Personnel Security and Prior OPM/ODNI inspections, forwarded to Cullo and Newman provides a timeline on delegated authority and 5 CFR 1400 issues.	Awareness of and Responses to Security Program Lapses						
ML0298	H56114-0058-020619	8/3/2020	Jansen messages Lennon regarding the draft responses to the OPM and ODNI reports. Jansen’s interpretation of the ODNI report is that they do not have to report to ODNI before the 60 day mark, and then every two weeks thereafter.	Awareness of and Responses to Security Program Lapses						
ML0299	H56114-0043-025906	8/4/2020	Walsh messages Lennon that she should mention the OPM HR Office audit history to Cullo so they can’t claim surprise. He asks whether OPM recently did a follow-up.	Performance Issues						

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ML0300	H56114-0032-026969	8/5/2020	Jansen emails Lennon and copies Hodge with a draft response to Holbert, ODNI Snap Team, in response to Holbert’s request for an update on the recommendations. Jansen lists seven items that they have started.	Awareness of and Responses to Security Program Lapses						
ML0301	H56114-0070-003837	8/5/2020	Lennon emails Cullo forwarding the email from Holbert (SNAP) to Jansen on status of the ODNI recommendations and Jansen’s draft reply. Lennon tells Cullo that the CAP drafts are nearly completed and will be forwarded to her for review. Lennon asks Cullo how they should provide two-week updates. “I would also appreciate knowing whether your intent is for us to respond to both reports prior to the investigation that is being planned to look into the USAGM security program. This is obviously a critical and extremely high-profile issue and I want to make sure that we are placing our resources into the actions you want us to take.” Lennon forwards the email to Walsh.	Awareness of and Responses to Security Program Lapses						
ML0302	H56114-0070-012077	8/6/2020	Jansen emails Fechter, copying Hodge, asking him if anything has been accomplished in regards to 5 CFR 1400 activities by OHR, in order to provide an update to ODNI. Fechter forwards the email to Luer and Lennon and asks: “What is Drew talking about here? Compliance with 1400, this is killing me.”	Awareness of and Responses to Security Program Lapses						
ML0303	H56114-0068-012548	8/7/2020	Lennon messages Jansen asking to discuss the OPM report with him so she can get clarification on some items.	Awareness of and Responses to Security Program Lapses						
ML0304	H56114-0077-036674	8/7/2020	Jansen messages Hodge complaining that he is busy fixing Lennon’s changes to the draft response to the OPM report. “Im fixing her fixing of the report that I fixed last night”.	Awareness of and Responses to Security Program Lapses						

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ML0305	H56114-0077-041266	8/14/2020	Lang, Lawrence, Bowman, Katarski and L. Smith, all apparently former USAGM/BBG security personnel, email each other regarding the Politico article on the purge at USAGM. They discuss the lack of resources provided to SEC by management over the years. Lang states that he and Jansen served Lennon with countless requests for additional resources and corrective action on the OPM inspection, but she wouldn't move forward to the CEO until much later in the process. Lawrence remarks that when he spoke to Jansen six months ago, he indicated that Lennon was present but it went above her, although she did not comment. The email string is forwarded to Jansen.	Awareness of and Responses to Security Program Lapses						
ML0306	H56114-0096-0086253	11/9/2020	Lennon emails Walsh and Cheng, attaching a draft response to the OPM draft report and Management Directives implementing the report. Walsh responds that he was speaking with Tran and a USAGM Board member asked for a security update at the following week's Board meeting.	Awareness of and Responses to Security Program Lapses						

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Matt Walsh Summary

Name: Matt Walsh, Deputy Director of Operations

Summary of Basis for Investigate Leave:

Walsh was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- His background investigation being performed when USAGM lacked proper authority (security clearance granted 9/27/17).
- Failure to remedy personnel and security concerns escalated to his attention and within the scope of his role.
- Various management issues related to the Human Resources department.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Walsh's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Walsh. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Walsh's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Walsh. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Walsh is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

Personnel Security Mismanagement

In late October 2018, Walsh acknowledged the slow background investigation process because the Security office was dealing with the OPM recommendations. His response to Shawn Powers when discussing the issues was, “Yea it’s a giant mess. Really unbelievable mismanagement.”¹

In November 2018, Walsh emailed Oahn Tran and Chelsea Lenore Milko with his ideas for USAGM reforms.² He raised a potential idea to turn the existing Chief Risk Officer (“CRO”) Office into a Risk and Compliance Office. He suggested that it would help address one of the Agency’s biggest problems, which is that they “have been very bad at implementing OIG recs and complying with various guidances from OPM, OMB, etc. on security, IT, HR, etc.” However, the documents reviewed do not show whether he took further action.

OPM/ODNI Report Corrective Action

The documents show that Walsh was aware of the issues in the 2018 OPM report. On November 1, 2018, Walsh recapped his notes from a meeting on the previous day, listing the following action items:³

1. OMS will send CEO Office and GC the draft plan for addressing the 37 items, including what’s possible by the Nov deadline, so we can take a look and weigh in
2. OMS will let CEO Office know if additional human/financial resources are needed for addressing any of the items
3. The same group will meet once per week for the next three weeks starting next week to do regular status updates on our response to OPM
4. OMS and Security will start putting together a menu of options for moving forward with the grantees w/r/t background investigations (and any other issues for decision w/r/t the grantees)
5. CEO Office will set up an update meeting with John (I’m thinking the week after next to give everyone some more time to make headway, but welcome thoughts on doing this sooner or later) to brief him on the response to OPM and discuss different possible approaches to the grantee issues

On August 2, 2019, Tran circulated the ODNI report on the 2018 personnel security assessment to Walsh, Andrew Jansen and Marie Lennon.⁴ Walsh forwarded it three days later to David Kligerman and Lillian Cheng, and noted that he was setting up a meeting for Security and OGC to discuss.⁵

On August 8, 2019, OPM emailed the final report to CEO Lansing, copying Lennon, Jansen and others.⁶ On August 22, Lansing forwarded the email to Walsh and said that he had no idea what it was. Walsh responded, “Looks like this is the final report from OPM on our background investigations program. I’ll read and digest and can fill you in tomorrow. We knew this was coming and I think we’re in good shape

¹ H56114-0007-058638

² H56114-0007-059001, H56114-0007-059002

³ H56114-0001-013016

⁴ H56114-0096-0091801

⁵ H56114-0001-058636

⁶ H56114-0009-047506

to respond.”⁷ Based on this email, it appears that Walsh may not have been keeping Lansing informed of the various reports, recommendations and corrective actions in play, or their seriousness.

Upon receiving the July 2020 report and questions regarding the recommendations from Diane Cullo, Lennon responded with her concerns and how her staff was addressing the issues. Lennon forwarded the response to Walsh, and he replied that her response was fantastic. He stated, “I have a few questions, but also hope we can underscore with Diane that this goes back years (at least 2012) and that the agency has really focused on this and has come a long way.”⁸ The documents indicate that Walsh fully recognized the longstanding issues, but had a very positive outlook on what had been accomplished over the years, and did not seem to grasp the serious nature of the report and recommendations.

Walsh met with Michael Pack and others on July 29, 2020. On August 5, 2020, he sent himself an email with notes from the meeting.⁹ These notes show he was concerned about Pack’s focus on placing blame for OPM’s security audit findings, indicating:

Towards the middle of the meeting, the topic of OPM’s most recent security audit of USAGM came up. I took the opportunity to ask if those in the room would like me to explain the background behind the issue, and they all said yes. We then spent at least 20 mins or more talking about the issue. It became clear to me that most or all of the other folks in the room did not know most of the background behind the most recent audit report (the history going back more than a decade, the fact that the Agency had made significant progress in the last 1-2 years in resolving OPM’s recommendations, etc.). It also became clear to me that some of the folks present seemed to be looking for who to blame on the current staff – they asked me questions like “who else was involved,” “so this person reported to you?” etc. I explained, rather emphatically, that this was part of a longstanding issue of previous Agency leaders not taking these OPM reports as seriously as they should have but that over the past 2 years (since I learned of the 2018 audit results) the Agency had done the opposite: we increased resources dedicated to fixing the issues raised by OPM, made doing so a priority, required regular check ins with staff working to fix the issues, and replied to and put plans in place to correct every single OPM rec. I noted all of us were very disappointed with the most recent OPM report, but also that there certainly was not a lack of effort – again, just the opposite.”

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Walsh’s:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment

⁷ H56114-0007-048709

⁸ H56114-0030-023607

⁹ H56114-0030-035023

- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Documents potentially relevant to consideration of Walsh's reliability, discretion and judgment have been flagged in certain of the Timeline entries associated with Walsh. Notably with respect to Walsh, our document review has also identified numerous examples of his forwarding potentially sensitive USAGM-related documents to his personal e-mail account.¹⁰ This includes Walsh, on the day he received his Leave Letter in August 2020, forwarding numerous documents and e-mails to his personal e-mail account, including a draft USAGM risk profile.¹¹ Such misuse of information technology is in violation of agency policies around e-mail use and document retention, could potentially implicate laws and regulations governing the maintenance of Federal records and is a basis to question Walsh's reliability, trustworthiness, discretion and judgment. The Timeline provided at Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

Further, the performance issues outlined below are potentially relevant to consideration of Walsh's reliability.

Performance Issues

Management Failure

There are documents that indicate Walsh may not have been providing sufficient oversight to issues of which he was aware and that were within his scope of authority. For example, in response to a July 19, 2018 NYT article that raised whether certain Facebook ads are a Smith-Mundt violation, Walsh immediately setup a working group led by CTO Rami Khater and Kligerman in order to pull together the appropriate representatives from the BBG and the five networks to assess current practices with digital/social ads and boosting, and to come up with a BBG-wide policy going forward. In response, Matt Baise forwarded Walsh all the historical documents showing how they had been trying for a long time to get Kligerman to approve an update to the Smith-Mundt policy.¹² Instead of focusing on Kligerman's lack of action, Walsh thanked Baise for sending everything, stating, "You're truly leading on this issue, which is huge."¹³ Kligerman was annoyed that Baise pointed out that he had not completed the updates, but Walsh glossed over it and said, "This is why you're co-leading the WG, though—so we can put a policy in place. Think it's a good opportunity."¹⁴ Walsh did not notice or looked past the fact that the policy was long overdue.

Human Resource Issues

In June 2020, Lennon put together a list of the Agency's hiring pipeline to share with Michael Pack and his team.¹⁵ She emailed the list to Walsh and said that there were some people she wanted to remove from the list, stating:

¹⁰ H56114-007-055597; H56114-0007-020194; H56114-0043-025180;

¹¹ See, e.g., H56114-0030-035169; H56114-0030-024595; H56114-0030-024604

¹² H56114-0002-012909

¹³ H56114-0002-013009

¹⁴ H56114-0043-026398

¹⁵ H56114-0007-042295.

I can explain my rationale and it may look self-serving, but many of these are internal moves from one position to another with higher promotion potential. That is the case with Lillian, James and Silvia Maull. Eric Johnson is our new PMF who will be working with the front office team and given our workload, we desperately need him. As you know, if we lose him now, he'll move on to greener pastures. And of course, Paulette Williams is the new hire for HR to work exclusively with OCB in Miami. The last item which is not on the list is the last minute accretion promotion request we received from Oanh for Armanda to a GS-13. I don't know how you feel about this one, but Grant approved it prior to Mr. Pack's appointment and we could make it happen with the next pay period if you would like. With regard to the J-1 visa hires, these recruitment actions are so complex and long that to stop any of them at this point would be a disaster to VOA. It will likely take many more weeks/months before we actually are able to on-board the candidates, so I would argue that we simply allow them to continue and not disrupt the progress made thus far.¹⁶

The history of concerns regarding promotion practices within the agency, and the apparent timing of trying to complete certain of these actions before Pack was made aware of them, raises a flag as to the propriety of Lennon's request and Walsh's potential involvement in it.

¹⁶ *Id.*

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0001	H56114-0085-034875	4/18/2017	Fallon (chief of staff) emails Kligerman, copy to others, including Lennon and Tran, summarizing the meeting the day before to discuss the agency’s travel processes and “possible directions for tightening up our position.” He says he gave the CEO a readout and the CEO was broadly supportive, and lists out what the changes would be, including that the CEO see and sign off on all federal, non-firewall protected travel and “[the CEO] believes strongly that, given the fiscal situation, [the agency] need[s] to put [themselves] in the best position possible when defending [their] travel budget.” There is also a discussion about setting travel caps. There is further discussion through May 2017. Tran then forwards it to Walsh on 8/15/18, more than a year later, with no text in the email body.	Performance Issues						
MW0002	H56114-0002-022929	4/25/2018	Fritschie asks various individuals to review testimony that Dr. Swett will deliver the next day. She tells Kligerman “I could really use your eyes on the interpretation I’m offering on the \$50.5m required in FY17 (and \$55m this year) for internet freedom funds. I think her argument that somehow those funds are earmarked just for circumvention is spurious.”	Performance Issues						

¹⁷ No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

¹⁸ Trustworthiness

¹⁹ Reliability

²⁰ Discretion

²¹ Honesty

²² Judgment

²³ Use of Information Technology

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0003	H56114-0043-028867	4/27/2018	Tran emails Ullah asking why he changed his itinerary for flying back from LA through NYC, instead of DC. Ullah responds that he’s going to speak at Yale that weekend and Monday and then would telework and come back and in his free time, check out hospitals for his father. Tran forwards to Walsh who proposes discussing it with her Monday (it’s a Friday).	Performance Issues						
MW0004	H56114-0085-036449	4/27/2018	Tran forwards a booking for Ullah’s upcoming NYC travel, to Walsh, with the comment: “???”	Performance Issues						
MW0005	H56114-0007-005952	5/30/2018	LER Williams-Jones emails Lennon expressing concern about the potential hiring of Kotz. On 7/27/2018, Williams-Jones emails Lennon again, copying Walsh, that she has not had any response to her prior email, and that more information about Kotz’s inappropriate behavior has emerged. Outside of the email string, Walsh speaks to Williams-Jones about the issue. On 8/1/2018, Williams-Jones emails Lansing, copying Walsh and Lennon, that she has not received any answers to her concerns, and that “employees are upset and anxious about the Agency’s plan with respect to David Kotz.” Williams Jones meets with Walsh and Lennon about the issue on 8/3/2018. Walsh disagrees with the claims that Kotz is creating a hostile work environment, and references the extensive reference checks done by Kligerman.	Performance Issues			X		X	

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0006	H56114-0002-017910	6/1/2018	Liu asks for assistance because the BBG Budget office is withholding funds pending a project by project list, which she states is not something OTF can provide due to its rolling submission process. In an email without Liu, Walsh brings up that it raises a broader question of how OTF operates, and how it has “barely explained how [it] plan[s] to spend.” Kligerman states “There are supposed to be reporting requirements including biannual or quarterly reports under the framework/governance document.” Turner states “In OCFO we know very little about OTF’s operations, but perhaps OIF folks know more.”	Performance Issues						
MW0007	H56114-0002-016717	6/19/2018	Cobb, Tran, Lennon and Walsh, among others, email to find a “creative” way to offer Powers pay at a higher step by considering his hire to be a reappointment from State under a Career Conditional Appointment in the competitive service.	Performance Issues						
MW0008	H56114-0002-016718	6/19/2018	Statement from Ullah to Cobb to support hiring Powers’ at higher pay.	Performance Issues						
MW0009	H56114-0002-049278	6/19/2018	Tran has Ullah approve pay for Powers after Cobb finds a way to give him a higher step under the superior qualifications pay setting authority.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0010	H56114-0043-026426	7/18/2018	Liu emails Fritschie, copying Turner and others about a \$1 million drawdown for OTF. Fritschie responds to Turner, removing the other recipients and adding Walsh, that she does not think it best to do the drawdown without all appropriators' consent necessary. Walsh responds that he is worried because Lansing believes the funds are being transferred to OTF and he does not want Liu to disturb Lansing while Lansing is on vacation. Fritschie reiterates her concerns. Turner states that carryover funds are available and it can be reallocated to RFA immediately, but not the full \$1 million, because that would require notifications to OMB and Congress. Walsh forwards the email string to Ullah, who comments "Wow". Walsh replies, "Yea, and these types of emails are regular occurrences..."	Performance Issues						
MW0011	H56114-0043-026398	7/20/2018	Kligerman asks for the attachments Baise sent stating "I know that initially they put together materials that allowed for certain domestic dissemination to "diaspora groups" and have been fighting with them about it for a while. It is finally resolved, I think, but that is what happens when they go all the way with crafting a policy and don't involve GC from the outset. Thanks, Dave PLEASE DON'T FORWARD THIS EMAIL ON." He follows up with an email to Walsh stating "Can we chat. I am not happy." Walsh states "Yep happy to chat. I haven't talked to baise, just that email. I reforward his attachments. This is why you're co-leading the WG, though – so we can put a policy in place. Think it's a good opportunity."	Performance Issues						
MW0012	H56114-0002-011414	7/30/2018	Walsh thanks Ullah for interviewing him, to which Ullah replies "Of course bud! You are going to be stellar in the gig and it's such a critical position."	Performance Issues						

APPENDIX A – WALSH TIMELINE

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					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0013	H56114-0002-047998	7/30/2018	Tran emails Ullah asking questions about his recent changes to an upcoming trip, including why he has to go to NYC for the weekend. He responds that he has to speak at a digital metrics roundtable up in NYC that Sunday and prepare and says he could come back to DC Friday and drive back up but he has patella tendonothopy so will need to take business class on the way back. Walsh is copied.	Performance Issues						
MW0014	H56114-0007-063549	8/7/2018	Walsh asks Lennon for her take on former VOA employee Taylor’s harassment complaint.	Performance Issues						
MW0015	H56114-0007-062699	8/14/2018	Walsh emails Lennon that he does not want to reply back to Williams-Jones “until we know more about the other issue you and I discussed yesterday.” Lennon states that “It should come as no surprise that the deadline wasn’t met and I got a preview that a counter offer will be presented today.” Walsh replies “Gotcha. Curious to hear what that is...”	Performance Issues						
MW0016	H56114-0007-063055	8/14/2018	Tran emails Walsh regarding Ullah’s requested authorization to travel to Geneva for the Concordia Media Conference. She says: “Another travel for Haroon. Were you aware?” She notes that the trip is short and is costing the Agency a lot due to business class accommodation for a medical waiver and a non-refundable fare. She notes: “There was an issue early on with Senior Staff frequent travels (when Jeff T and Andrea M were on board). Rob worked with Grant and Renea to impose a policy that each office must remain within their travel budget.” She asks how to handle. Walsh responds that that he didn’t know of the trip and he thinks they need to tell Ullah that he needs to stay within OPR’s travel budget and Walsh can talk to him. Walsh emails later that he told Ullah to go see Tran.	Performance Issues						
MW0017	H56114-0002-047411	8/15/2018	Ullah emails Cobb that Mower told Walsh that Ullah was wasting Agency money and handling travel in an irregular way and that she shared similar complaints with Lennon.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0018	H56114-0002-047544	8/15/2018	Walsh emails Ullah that Tran has approved his trip to Geneva (see other emails in the Timeline this day and the day before). Ullah responds that he is talking to Lennon and am filing a false claim against Mower.	Performance Issues						
MW0019	H56114-0007-046548	8/15/2018	Walsh emails Mower after they talked that day about Ullah’s travel that Walsh spoke to the travel office and “[t]hey went through everything with me and Haroon is doing everything right w/r/t this trip” [the Geneva trip]. Walsh says that it fits into guidelines and the budgeting and OCR vetted his medical waiver and it looks “very legit” and the travel folks recommend approving it. He notes that the agency is putting in place a more formal travel approval process going forward and says it has been in the works for a few weeks “because of other travel issues.” Later in the chain, Walsh notifies Tran and Lennon of his meeting with Mower that day. He notes that he’s confident that proper travel procedures are being followed.	Performance Issues						
MW0020	H56114-0007-063088	8/15/2018	Tracey Jacobsen interviewed for a position. Leading up to that, she purchased a ticket to DC. Walsh asks whether she can reschedule because Chairman Weinstein will be in Tokyo. He states that he asked the team whether they could reimburse Jacobsen for the flight change fee or pay for her to come on a rescheduled day. After the interview, Walsh tells Jacobsen that she should get her references together. The two keep in touch regarding the position. Jacobsen states that she heard from Tran who asked her if she could come back to DC.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0021	H56114-0007-046572	8/16/2018	Mower emails Walsh that he should assure Ullah that no one is singling him out, that the fact that the Front Office is reviewing travel policy “underscores the seriousness of this issue,” and notes several other issues she sees with agency travel, including that premium travel “is highly controversial and [a] longstanding subject”, it cannot be approved by one subordinate in grade to the traveler, and it must be reported to GSA.	Performance Issues						
MW0022	H56114-0007-062470	8/17/2018	Walsh emails Cobb asking if he could beef up his ECQ essays before they got to OPM for the Deputy Director Ops positions. Walsh tells Tran that Haroon sent the document out without clearing with anyone and “It was not great.”	Performance Issues						
MW0023	H56114-0007-063027	8/17/2018	Walsh emails Kligerman that he will not reply to a request from Wojcik for information about investigations of Kotz’s behavior and will defer to Kligerman’s response.	Performance Issues			X		X	
MW0024	H56114-0096-0000355	8/17/2018	Cobb asks Kligerman to deal with Wojcik, who asked for Cobb’s notes from her meeting with Kligerman. Kligerman states that it is his understanding that Wojcik is not entitled to Cobb’s work product.	Performance Issues						
MW0025	H56114-0006-026111	8/21/2018	Carew emails Filipkowski, copying Turner and Walsh, to ask what the steps are to get the \$3500 for the BBG Impact Event. Filipkowski states “For events with Representational funds, we have to ensure that a majority of the attendees are not BBG’s Government employees and technically the majority should be non-Federal. For this event, this may not be the case, but this is a one-time, special event.” Walsh states that he agrees.	Performance Issues						
MW0026	H56114-0007-062769	8/22/2018	Walsh forwards conversation between Tran, Cobb, Lennon, and Dupree to Ullah regarding Ullah’s selection for Deputy Director position.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0027	H56114-0007-045326	8/28/2018	Tran tells Lansing that “Diane Cullo (the part-time political appointee working with Pack on his prep) reached out to Schuck this morning essentially saying she wanted his help blocking the two Deputy Director SES positions. It sounds like Pack is asking her to do this. She wanted a legal document from Dave that she then could forward to OPM explain why they shouldn’t approve the positions – which is crazy since our legal interpretation is that this is perfectly legal for a number of reasons.” Lansing replies “ I think Dave should write a clear legal opinion making the unambiguous case that per the 2017 NDAA the ceo has the right and duty to continue to operate the agency. Diane herself affirmed that with us in our meeting. He should also note that the Board still exists as a Senate confirmed body and they unanimously support these hires.”	Performance Issues						
MW0028	H56114-0006-050333	8/30/2018	Walsh forwards SES memo to Turner. Turner forwards to Barkhamer stating that he is not sure this makes their case clearly enough.	Performance Issues						
MW0029	H56114-0007-062161	8/30/2018	Kligerman and Walsh discuss SES appointment memo with Tran and Lansing copied.	Performance Issues						
MW0030	H56114-0002-006731	9/7/2018	Walsh in a discussion about approving someone else’s travel, states: “Ok with me but defer to Oanh on all travel stuff!” Later in the chain, Tran notes that Milko is drafting a new travel policy/process, noting that “[e]ssentially, individual offices will manage and stay within the travel budgets.”	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0031	H56114-0002-005609	9/11/2018	Liu emails Turner, copy to Ullah and Walsh that RFA incurred around \$10k of research-related expenses which she says they were promised would be reimbursed and they are now being told months after submitting documentation that the Agency would not be. She asks how they propose reimbursing. She notes too that Lansing and Ullah promised to reimburse RFA for her DG7 related travel and she assumes there needs to be a plan for that too.	Performance Issues						
MW0032	H56114-0007-061104	9/14/2018	Walsh’s notes regarding meetings with OMB and a follow-up meeting with Turner, say that OMB “is now threatening that if USAGM submits any SES selections to OPM’s QRB that OPM is going to conduct an HR audit of USAGM, implying retaliation of some sort and/or that we have incorrectly followed HR processes. Marie Lennon, who also was in this meeting, and John, Haroon, and me were very surprised and taken back by this. Marie asserted, and I agreed to the best of my knowledge, that USAGM follows all HR processes to the t...The following week either on Sept 11 or 12, Grant came to my office one day and closed my door. Said he wanted to talk about the SES positions. He said two main things: first, he said he thinks the agency should pull back on the two Dep Dir selections and instead create an agency SES development program as a way to fill SES jobs in a way that OPM would not be able to interfere with. He also said directly, and I was really taken aback by this, that me and Haroon are too young to fill SES positions. I pushed back on this assertion but ended the conversation pretty quickly because of how angry I was with his comment.”	Performance Issues			X		X	
MW0033	H56114-0007-061302	9/17/2018	Chisolm emails Walsh with an order needing Lansing’s approval for an Apple Watch and Beats Headphone for Ullah. Walsh forwards to Tran with “angry characters” and says “Let’s discuss.”	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0034	H56114-0007-042741	9/18/2018	Walsh responds to Chisolm that she spoke with Ullah and he is going to remove the Apple watch and headphones from his expense request. Walsh should have raised this ethical issue up the chain.	Performance Issues						
MW0035	H56114-0002-004607	9/19/2018	Email among Powers, Tran, Ullah, Walsh, Stefanou, and Ostrander-Damon discussing finalizing the details for an event at the Newseum. The Agency already spent its allotment for FY18 and Powers is trying to figure out a way to pay for the food and beverages, since Luer says that the OPR funds cannot be used for food. Stefanou emails Walsh and Tran to loop them in to find other mechanisms to pay for it. Stefanou responds to Ullah and Powers that she spoke with Tran about it and they should chat.	Performance Issues						
MW0036	H56114-0006-049643	9/26/2018	Ramos in Travel emails concerns about Kazmi’s upcoming travel to Thailand, Turkey and Bangladesh, noting Ullah is normally the approver of Kazmi’s travel. Turner asks questions about whether any portion of the trip is personal and notes that Walsh should also verify the nature of the travel given that Ullah is the supervisor. Brauner in Travel says that he has read through the materials and believes there is a significant amount of doubt whether the Bangladesh part of the trip is for USAGM business or simply personal. He notes that it isn’t his department’s responsibility to make sure each trip is within FTR guidelines and they do not question the purpose of a traveler’s itinerary and they assume the supervisor has full knowledge of the trip’s purpose when approving it. Turner confirms Brauner should check with Walsh.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0037	H56114-0002-003346	10/3/2018	In response to his list of proposed travel for October 2018, Tran responds to Ullah that it would be nice to know in advance before he commits to any speaking engagements, and that they've been working on finalizing travel guidelines but she has questions in the meantime. She lists out the questions including about a trip on a federal holiday, the connection of his trips to the Agency's mission, and the goals and objectives for the trips. Walsh is copied. Ullah was under investigation by this point by at least the Agency.	Performance Issues						
MW0038	H56114-0002-002724	10/4/2018	Tran emails Thatcher regarding an upcoming trip he has scheduled that his travel is approved but that his future travel and meeting commitments must be pre-approved by the CEO. On 10/5/2018 Walsh writes to Balazs, Tran, and Ullah: "We really need to crack down on Gary's [Thatcher's] travel - it seems like way too much." He notes that Tran who is handling all travel approvals that come to the CEO office, talked to Lansing about this the day before and he wants to shrink Thatcher's list of trips and personally have visibility into each request. Ullah and Balazs agree with Walsh.	Performance Issues						
MW0039	H56114-0007-060547	10/4/2018	Matthews asks the Travel Office to be removed from Ullah's travel authorizations and vouchers and to add Stefanou instead. Walsh responds to Matthews, copy to Tran: "Good idea".	Performance Issues						
MW0040	H56114-0006-021861	10/9/2018	Turner emails OIG employee Warffeli providing information about Ullah's travel. On 10/10/2018, Warffeli says that she would like to speak to Tran or Walsh about it, and asks if she can be sure that they will not tell Ullah about the investigation. Turner replies that they are both discreet, but he is not sure Tran knows about the travel issue.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0041	H56114-0006-022302	10/12/2018	Turner emails Filipkowski and Jones, copy to Barkhamer, asking if all the offices have a set travel budget, noting that Walsh is trying to work with Tran “to define a more stringent travel policy” and wanted to know. On 10/15/2018, Filipkowski responds that there is no specific travel budget for any entity and “[t]hey can use what they feel is necessary.”	Performance Issues						
MW0042	H56114-0007-058638	10/31/2018	Powers emails security office staff and Walsh, asking about the status of his security clearance, which he has been waiting for since the end of July. On 11/8/2018, Powers again emails, Walsh, asking him to follow up. Walsh responds that he will check, and “OPM dinged us on our entire background investigation processes so this may be caught up in that. Our Security office put a temporary hold on everything to fix the issues OPM is focused on...it’s a giant mess. Really unbelievable mismanagement.”	Awareness of and Responses to Security Program Lapses						
MW0043	H56114-0007-058999	10/31/2018	Powers emails Walsh about his security clearance, and why it did not just transfer over from his previous job (reciprocity issue). Walsh responds that it should just transfer over: “You should ask the Security office. If they push back or are slow let me know and I can intervene.” He also says getting a State badge is not a quick process because the Security Office is slow with these things.	Performance Issues						
MW0044	H56114-0001-013016	11/1/2018	Following an email from Cheng that presented an argument that USAGM was not required to immediately stop conducting background investigations, Walsh asks Lennon and Jansen, copying Kligerman and others, if USAGM should temporarily stop conducting investigation. He outlines the actions OMS is to take in preparing a corrective action plan and response to OPM.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0045	H56114-0007-059360	11/1/2018	Cheng emails Walsh, Lennon, Jansen, and Milko, copying Kligerman regarding her conversation with OPM counsel. Cheng states that she does not believe the agency is required to cease investigations at that time but asks Lennon and Jansen whether it makes sense to take proactive measures in case the agency is later ordered to transfer its investigations. Lennon then responds to Walsh only, explaining that they are working on draft responses and that she has asked for Jansen’s input on some responses before the circulating a first draft to Walsh and Kligerman the following week. Walsh. She states, “The longer we can push out the meeting with JFL, the better chance we’ll have to get solid procedures in place, but we’ll be ready to brief him whenever it’s best for his schedule.” Walsh agrees with the plan and suggests discussing when it makes sense to meet with “JL.”	Awareness of and Responses to Security Program Lapses						
MW0046	H56114-0065-022862	11/1/2018	Lennon emails Walsh that she has been working on the draft response to OPM’s report on the personnel suitability program and will send it to Jansen because portions require his input.	Awareness of and Responses to Security Program Lapses						
MW0047	H56114-0007-058993	11/2/2018	Conaty emails Walsh about a report on an LER hostile work environment claim, advising that the staff should be informed about the report’s conclusions. Walsh asks if Conaty means a communication to Lennon and HR director Cobb, or to the LER staff who made complaint.	Performance Issues						
MW0048	H56114-0007-038847	11/9/2018	Lennon emails Walsh and Cheng, attaching a draft response to the OPM draft report and Management Directives implementing the report. Walsh responds that he was speaking with Tran and a USAGM Board member asked for a security update at the following week’s Board meeting.	Awareness of and Responses to Security Program Lapses						
MW0049	H56114-0007-058845	11/9/2018	HR employee Coleman emails Walsh in response to his message about the hostile work environment claim against Cobb, asking if the investigator interviewed everyone in HR. Walsh response that he will check and let her know.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0050	H56114-0007-059001	11/9/2018	Walsh emails Tran and Milko a list of ideas for USAGM management reform.	Performance Issues						
MW0051	H56114-0007-059002	11/9/2018	Walsh’s list of ideas for USAGM management reform includes more frequent security updates to the CEO, but he is opposed to moving the security office out of OMS, because he favors reducing the number of people reporting directly to the CEO.	Performance Issues						
MW0052	H56114-0007-059133	11/9/2018	Walsh emails HR employees who raised a complaint alleging harassment and hostile work environment against HR director Cobb, letting them know that an investigation into the claims found insufficient evidence to support them, but Cobb recognizes there is room for improvement in communications. He forwards his email to Lennon.	Performance Issues						
MW0053	H56114-0007-037061	11/13/2018	Lennon emails Walsh, copying Jansen draft talking points regarding security for USAGM board meeting. In response to Walsh’s question whether the agency’s delegated authority was actually suspended by the OPM draft report, Lennon states the GC should answer that question. “I agree with you that we shouldn’t be alarming the govts and grantees unnecessarily, but we’re trying to play it as safe as possible. I’m not sure GC would see it in the same way.” Jansen responds that the agency’s delegated authority is technically not suspended but the renewal process has been placed in pending mode until corrections are made. Walsh responds, “I don’t think we should say it was suspended though if it wasn’t. Think we should explain the nuance and say we took the step to suspend it ourselves to act in good faith. Or something like that.” Jansen responds with the proposed edited language, “OPM has declined to approve a new Delegation of Investigative Authority to conduct background investigations until USAGM addresses the listed improvements.”	Awareness of and Responses to Security Program Lapses		X	X		X	

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0054	H56114-0096-0086545	11/13/2018	Lennon emails Walsh, copying Jansen, draft talking points regarding security updates. Walsh responds and asks, “Did OPM really temporarily suspend our delegated authority to conduct investigations? I thought we weren’t sure on that based on the fact that that the report from them is still draft, etc. I just am not sure we should tell the Board that unless we are sure it was suspended... If we aren’t sure, we could just say we decided to operation as if it was suspended to show good faith.” Walsh forwards the talking points to Kligerman. On 11/14/2018, Kligerman provides edits to the talking points.	Awareness of and Responses to Security Program Lapses		X	X		X	
MW0055	H56114-0007-038067	11/14/2018	Beidleman responds to Walsh’s email regarding the investigation into allegations against HR director Cobb of harassment and hostile work environment. Biedleman says that she does not believe the investigation will be carried out properly and also expresses concern that Walsh shared her statement with her second line supervisor.	Performance Issues						
MW0056	H56114-0096-0086546	11/14/2018	Redlined version of talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
MW0057	H56114-0096-0086548	11/14/2018	Draft talking points regarding security issues for Board of Governors meeting.	Awareness of and Responses to Security Program Lapses						
MW0058	H56114-0007-058500	11/20/2018	Lennon forwards to Walsh and Kligerman Mower’s email that Cobb later responds to on 11/23/18 as summarized on the timeline. Mower’s email covers her complaints about Tran’s promotions and her being pre-selected for an SES position. Walsh replies, “Wow, she’s really out of line.”	Performance Issues					X	

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0059	H56114-0007-036772	11/23/2018	Cobb forwards to Lennon an email from Mower on 11/20/18 that alleges “More Mismanagement/Abuse in the Front Office of USAGM”, asking if Cobb can pass it along to OIG, saying she will try to reach out to OPM. Mower notes she’s a finalist for SES Deputy Director and questions why they are opening a third SES position and alleges that Tran has been pre-selected for the position and that “many in the building” are asking why and if it’s because Tran has been “covering for [Lansing] on various illegalities” including Premium Travel for Ullah and long summer telecommuting. She claims Tran moved from GS-13 to GS-15 without advertising and is now going to get an “undeserved” SES position, the duties of which are “basically secretarial tasks”. Cobb in her email to Lennon says that “it will look pretty bad” for Lansing and the CEO’s office if Mower goes to OIG on this. Cobb thinks the position is a weak SES though HR “did the best [it] could” in classifying the position. She notes employees have come to her office saying that Tran “has finally figured out a way to get her SES” and OIG might see the new position is “very, very similar” to Tran’s current position. She notes that Tran “has not competed for any of her promotions” and explains her promotion history and the role of Lansing. She says that Walsh said Lansing was concerned but they would make sure everything was done legally. Cobb says that she is afraid that if OIG were to look at this, it would reinforce the April 16, 2018 OIG report on all the complaints about the Agency’s hiring practices. Lennon forwards the email to Walsh on 11/27/18.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0060	H56114-0007-058136	11/28/2018	Walsh responds to Lennon’s email from 11/27/2018 forwarding Cobb’s email from 11/23/18 on Mower’s complaints about Tran’s promotions and her being pre-selected for an SES position. He says he has never had the impression this was pre-selected and he doesn’t want to be a part of anything against regulations so he asks if they can discuss. He expressed his annoyance at Cobb’s comments though he notes he likes Cobb, because he has had multiple conversations with HR about the position and this never came up. He says they could have tweaked the approach if they had raised it but doesn’t want to now because he doesn’t want to lend credence to Mower’s narrative. He calls the position “very legitimate” and one Lansing wants to fill through a merit competition. He explains in detail why they created the role and why it merits the SES level. He then adds individualized reactions /rebuttals using in-line text, to each of Cobb’s points. He says that Mower’s story is unfair to Tran, who has done nothing wrong.	Performance Issues						
MW0061	H56114-0034-021958	11/29/2018	Cobb re-forwards her 11/23/18 email to Lennon commenting on Mower’s complaints about Tran’s promotions and the SES position Tran has allegedly been pre-selected for, back to Lennon, noting that she (Cobb) takes it that, in receiving the signed SF-52 for the Executive Director recruitment, signed by Walsh and Lansing, Cobb’s email and issues “had no bearing on them whatsoever” and says it would be helpful if Walsh could send her something official indicating that they are to move forward with the recruitment despite Cobb’s concerns but Cobb is sure that won’t happen. She notes that this probably isn’t the last they’ll hear from Mower or the “quite a few” who feel as Mower does.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0062	H56114-0007-057651	12/3/2018	Walsh explains to Matthews, who asked what the procedures were for travel justifications, that Tran takes a look and Lansing signs off. She asks what to do if they're both traveling. Walsh says he will take a look.	Performance Issues						
MW0063	H56114-0007-057392	12/6/2018	Tran emails Lansing a travel approval request for Thatcher the following week. She forwards the email to Walsh, saying: "FYI. Thanks for holding off approving." He replies on 12/7/2018: "Why did he wait until the last second to request this trip?!?"	Performance Issues						
MW0064	H56114-0007-034738	12/10/2018	Mower emails Tran and Walsh regarding the Internet Freedom Festival (IFF) for 2019: "Given the sensitivities over group travel / junkets / boondoggles to European venues etc, hope someone is monitoring this one! Maybe not a good idea to encourage ALL USAGM to sign up for 4 days in Valencia at USG expense?" Walsh responds that he talked to Powers who will ensure there will be minimal attendance, and thanks her for flagging. She responds: "Great. This has long been a popular boondoggle funded to the tune of \$220,000 by USAGM/RFA in 2016 for example."	Performance Issues						
MW0065	H56114-0007-057498	12/10/2018	Walsh forwards to Powers Mower's email questioning sending numerous people to IFF in Valencia, summarized separately on the timeline, saying that as much as it pains him to say Mower is right, she does seem right that they don't want that many USAGM folks attending, and "[w]e had this same issue with a DW conference earlier this year" and he ended up coordinating as to reduce footprint and maybe that should be done here. Powers responds that he's on it and will ensure footprint is minimal and it is being monitored closely.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0066	H56114-0007-034030	12/13/2018	Tran emails Powers and Walsh, asking them if, in light of Mower’s concerns about the Internet Freedom Festival, Hurley’s proposed travel to attend it should be approved. Walsh and Powers agree that Hurley should attend, but that overall USAGM and RFA participation should be kept to a minimum.	Performance Issues						
MW0067	H56114-0007-035446	12/14/2018	Cobb emails OPM, copy to Lennon, Walsh and others, the Agency’s response to OPM’s evaluation of delegated examining operations at the Agency.	Awareness of and Responses to Security Program Lapses						
MW0068	H56114-0007-057095	12/14/2018	Lansing, in response to Thatcher’s report on his trip to Strasbourg that the US European Command would not provide funding for an RFE/RL effort to monitor Ukrainian elections in 2019, from the day before, says: “...and we had to go all the way to Strasbourg to hear ‘no’? Ridiculous.” Lansing’s email is to Tran and Walsh. Walsh responds, copying Powers too: “As Shawn point out, we’ve been ‘Thatchered.’ I think Shawn is also right that on a positive note, this makes it easier for us to say no to his trip requests like this.”	Performance Issues						
MW0069	H56114-0007-056567	1/8/2019	Walsh emails Kligerman, Powers, and Turner that they should find out more from Thatcher about the conference he wants to attend as it seems random and not very useful even if CENTCOM is paying for it. He notes: “We’ve had lots of issues with Gary traveling too much, which Shawn is very familiar with!” The chain continues with having Thatcher possibly attend with supervision.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0070	H56114-0007-055812	2/1/2019	Cullo emails Schuck her information for a transfer to the Agency, asking if he can expedite. Walsh responds to Schuck, copying Lansing and Lennon, saying: “Wow. Bold move by Diane. We can discuss Monday. + Marie”. Lennon responds to just Walsh: “Huh? Did we know this was in the works? As always, let me know what you need from me and my team.” Walsh responds on 2/4/19, copying Kligerman: “Yea very strange. We didn’t know it was in the works. I think it will be fine for multiple reasons, but we can discuss. John told Matt Schuck there’s no way she’s coming here under his watch, and Matt has gone back to Diane and told her that John’s position hasn’t changed. PPO hasn’t actually asked Matt to do anything, so this could just go away. But we’ll see. It would be really helpful though if someone in OMS or GC could pull together whatever regulations there are, I assume from OPM or OMB, regarding Schedule Cs and when agencies have to take them onboard, what flexibility do we have in accepting or rejecting names given to us, how does this work given that we’re run by a bipartisan Board, etc. (which is the same argument we teed up for OPM w/r/t SES positions, and OPM has seemed to side with us). I’ve only ever seen the regs for SES schedule Cs, not actually GS-level, which I think are more applicable here.”	Performance Issues						
MW0071	H56114-0007-056103	2/4/2019	Tran emails Walsh: “Please take a look at the attached GS-14 PD (both PDF and Word) for Chelsea [Milko] as established when the job was announced initially. Here are some thoughts to add to her PD as we discussed [providing her thoughts].” Walsh responds on 2/6/19 about adding a sentence to end of the intro, noting: “It’s vague and allows us to have Chelsea play an integral role in the Secretariat once we get that going[.]” He also says: “Re: the Secretariat, we should map out options for creating that very soon. I have a few different ideas, as I’m sure you do too.”	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0072	H56114-0007-055597	2/8/2019	VOA job candidate Craig emails Walsh about her experience with USAGM HR, during which she was told she was hired, then told she would have to wait 90 days to receive an offer letter, and at the end of 90 days was told she had to start the process over with a new job posting. Walsh forwards the email to Lennon, disclosing that Craig is a friend and asking if Lennon can find out what happened. On 2/13/2019, Lennon tells Walsh: “Unraveling this one was indeed a challenge, and honestly I still feel like I’m not getting the straight story for all involved. The bottom line, however, is that she does not have to restart the process. If her justification package for superior qualifications is approved, she can be appointed to the position she originally applied for and was apparently selected for in SCA.” Walsh forwards the email to his personal email account.	Performance Issues						
MW0073	H56114-0007-055615	2/8/2019	In an email discussion between Lennon and Walsh on whether she has time to attend an offsite planning session with senior management, she explains why she may be too busy, noting as one reason: “We are also working hard to bring Security processes into compliance in order to go back to OPM with a report that will hopefully allow us to regain our authority for investigations. Those changes involve changes in processes and policy in both HR and Security. And, as you know, the usual issues in the HR department have been exacerbated (at least for now) given the vacancy that just occurred in a key management position. Carroll [Cobb] can’t do it by herself and my hands-on assistance is going to be necessary for several weeks, at least.”	Awareness of and Responses to Security Program Lapses						
MW0074	H56114-0007-028778	3/6/2019	Jansen emails RFE /RL employee Genovese regarding changes in the security process for grantees. On 3/8/2019, RFE/RL chief of staff Fetzko forwards the email to Walsh as “the latest communication on the background check issues” and says it was good talking to him that morning.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0075	H56114-0007-055029	3/6/2019	Tran emails Walsh, asking him to look at Kazmi’s “another travel request,” saying that it seems excessive and noting it is also on very short notice. She adds: “Barbara and Terry, as you know, would approve anything.” Walsh responds that he’s okay with it as long as BD and TSI have budgeted for it and if VOA and RFA are on board. He also says they should find a way for all TSI, OMS, and CRO requests to go through him (Walsh) first.	Performance Issues						
MW0076	H56114-0007-028846	3/7/2019	In an email discussion that ends on this date, Cobb raises questions about why Capus’s start date in his paperwork is 2/17/19, instead of 2/25/19, when he was sworn in. Tran says that she would like to start him on that earlier date so that they could take care of his travel, but if that can’t be done, they will process his travel another way. Cobb responds that she would “like to stay with the regs,” so she thinks 2/25 “would look better than trying to explain a situation where [the Agency] had him work without taking the oath,” but then Cobb learns that he actually worked some days before the oath and says they will change the effective date to earlier, to make sure he is paid for days he actually worked. She says that she will make a note in the file that unknown to HR, the CEO/Agency Director asked him to work prior to the oath as “[t]hat way it won’t look like HR authorized it in case we ever get audited.” Walsh is copied.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0077	H56114-0007-027780	3/13/2019	In an email discussion about the VOA 365 roll-outs and avoiding Smith-Mundt violations and what funds to use, Fritschie says in the earlier 3/11/19 email that she is “uncomfortable” with using any funds besides rep funds to do events and asks Kligerman if there is legal language around the use of administrative funds that points to “other purposes”, as it would be helpful if criticized. Carew notes in response on 3/13/19 that “as US agencies go, we are at the lower end of the spectrum on events frequency and scope”. The email chain continues that day, including after a meeting with Lansing, and there’s a suggestion to do an overseas event. Walsh notes to Carew only that he is glad they met with Lansing and Lansing is “really frustrated with you know who.” Carew responds: “I know. I hate using John’s time like this.” She adds that with overseas events, they can partner with grantees so that the Agency may not need to spend anything. Tran and Turner are copied on the earlier discussion but not at the end of the discussion on using Lansing’s time and his being frustrated.	Performance Issues						
MW0078	H56114-0085-029961	3/18/2019	Andross forwards to Tran the OIG Draft Report: Inspection of USAGM Governance, saying she noticed OIG didn’t copy USAGM Inspections so she is sending it to Tran, and Rosenholtz sent it to Walsh and she believes, OGC, earlier that day.	Performance Issues						
MW0079	H56114-0007-053941	3/19/2019	Walsh emails the Board of Governors, copying Lansing, Kligerman, Lennon, and others about an OIG report examining USAGM Governance. There are five recommendations related to internal processes as well as concerns about editorial independence due to NDAA changes.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0080	H56114-0007-054082	3/27/2019	Tran forwards to Walsh a letter from OPM regarding USAGM’s response to the OPM delegated examining unit evaluation, “Marta’s case is in the attached response.” Walsh replies that he is speaking with Lennon and Kligerman later and asks if Tran would like to join. Later, he tells Tran, “Just fyi – we fixed this”.	Awareness of and Responses to Security Program Lapses						
MW0081	H56114-0007-008509	3/29/2019	Walsh emails Sugawara and Larson at VOA, questioning the high number of VOA employees scheduled to attend the NAB conference. VOA provides reasons for each employee’s attendance. On 4/1/2019, Walsh responds, “I just needed to make sure that the VOA front office was aware of and could justify the overall VOA traveler #s.”	Performance Issues						
MW0082	H56114-0075-0006327	4/18/2019	Cheng emails Walsh, with a copy to Kligerman, about VOA365 registration, raising a concern that “there is a false narrative started by [Kazmi] at various points in the email chain below that seems to imply GC inflexibility and lack of concern...any suggestion that GC is obstructing action or not taking the issue seriously is an unfair attack...” Walsh responds that he does not think OGC has been a problem on the issue.	Performance Issues						
MW0083	H56114-0007-021340	5/6/2019	Nweke emails Powers, copying Walsh and others regarding the next steps in the ERM process and asks for his response plan by 5/15/2019. On 5/14/19, Nweke sends a follow up email to Powers reminding him to send his response plan. Nepper responds, copying in Beatty, as Powers is out of travel.	Performance Issues						
MW0084	H56114-0007-020857	5/15/2019	Lennon emails Nweke, copying Walsh, a summary of OMS’s response plan for the enterprise risk profile.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0085	H56114-0007-020858	5/15/2019	Summary risk response plan for OMS areas of responsibility in the enterprise risk profile says that USAGM has ceased conducting its own security background investigations, developed a corrective action plan to address to address issues raised in the OPM/ODNI audit, and will seek renewed delegated authority when more progress has been made on corrective actions.	Awareness of and Responses to Security Program Lapses						
MW0086	H56114-0007-051774	5/16/2019	Jansen emails Nweke raising issues he has with how Security is being discussed on the Risk Review. He notes the MOU expired but all personnel security investigations were reported to OPM and recorded in CVS. Jansen does not think the “situation” (lack of delegated authority) “amounts to a risk factor”; and they are currently trying to reduce the backlog created by lack of SEC staff. Raises issue of 5 CFR 1400 and how the Agency “classified all USAGM positions as noncritical sensitive” requiring Tier 3 investigation; and now complying with CFR 1400 using PDT. Overall Jansen in the chain is somewhat aggressive and defensive of his position.	Awareness of and Responses to Security Program Lapses						
MW0087	H56114-0076-062630	6/25/2019	Walsh emails Powers and Tran, asking for the status on approving Thatcher’s Korea trip, saying that Liu reached out making an argument that it should be approved and she is making a good case. Tran responds that Liu and her team are on the ground so what else is needed. Powers responds that he is having a hard time approving the trip and gives reasons, including that Thatcher was lead on USAGM’s North Korea report which was “an utter disaster”. He said Thatcher never responded to his email about serious problems with that. Approving the trip “would appear to reward [sic] his lack of professionalism and work ethic.” He thinks someone else from USAGM could go more cheaply too.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0088	H56114-0001-058637	7/30/2019	Letter from ODNI to Lansing enclosing a draft report on ODNI's 2018 re-assessment of USAGM's personnel security program. The letter states that USGM has failed to address recommendations made in 2015, and must cease conducting national security background investigations and adjudications. The attached report notes that BBG/USAGM's delegated authority to conduct investigations expired in 12/13/2012. On 8/2/2019, Tran forwards the letter and report to Jansen, Lennon, and Walsh. On 8/5/2019, Walsh forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses		X	X		X	
MW0089	H56114-0007-049296	8/2/2019	Development employee Mower emails HR director Cobb (with a copy to Lennon), asking why she was not interviewed by the Executive Resources Board (ERB) for the Executive Director position, and why there has been no House Announcement regarding the selectee. Cobb responds that it is not the role of the ERB to conduct interviews, and there is no requirement to issue an announcement. Lennon forwards the communication to Walsh. On 8/5/2019, Walsh responds that he agrees with Cobb, and that Mower also asked him the same questions.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0090	H56114-0077-010704	8/2/2019	Tran emails Jansen (with a copy to Lennon and the CEO office) regarding a draft report from ODNI on the 2018 reassessment of USAGM’s personnel security program. USAGM is requested to stop conducting national security background investigations and to have all individuals investigated since the 2012 expiration of investigative authority re-investigated by the National Background Investigations Bureau (NBIB), and to stop conducting national security adjudications until personnel are properly trained. Jansen responds that USAGM has already started having NBIB conduct its background investigations, and that he has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators. On 8/5/2019, Walsh responds requesting a meeting to discuss the response to OPM/ODNI and grantee background checks.	Awareness of and Responses to Security Program Lapses						
MW0091	H56114-0001-058636	8/5/2019	Walsh forwards the draft ODNI report to Kligerman, requesting that OGC participate in a meeting with security to discuss the report and grantee background investigations.	Awareness of and Responses to Security Program Lapses						
MW0092	H56114-0077-010681	8/5/2019	Lennon emails Jansen and others requesting information for a briefing to Walsh on the OPM/ODNI reports and grantee background investigations.	Awareness of and Responses to Security Program Lapses						
MW0093	H56114-0096-0142720	8/5/2019	Walsh forwards to Kligerman Jansen’s 8/2/2019 emails in response to the draft ODNI report, including the information that USAGM has already started having NBIB conduct its background investigations, and that Jansen has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators.	Awareness of and Responses to Security Program Lapses						
MW0094	H56114-0007-013624	8/6/2019	Lennon emails Walsh a draft protocol to address grantee personnel security issues.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0095	H56114-0007-013625	8/6/2019	Explanatory background document for draft protocol to address grantee personnel security states that grantee background investigations have all but ceased because of issues including GDPR and the OPM/ODNI audit. Article X of the grant agreements calls for a written protocol addressing background investigations for grantee positions. But no Article X protocol has been finalized with any grantee.	Awareness of and Responses to Security Program Lapses						
MW0096	H56114-0007-013626	8/6/2019	Draft personnel security protocol per Article X of the grant agreements outlines background investigation requirements for grantee positions.	Awareness of and Responses to Security Program Lapses						
MW0097	H56114-0007-048979	8/9/2019	Walsh emails with Milko that he thinks that they should both attend a work trip to Europe in September “[d]espite what Oanh says”. Milko says it’s the first time she has seen Tran concerned about having them both out of the office during a possibly critical time. Walsh says that they will circle back and try to get Tran comfortable.	Performance Issues						
MW0098	H56114-0007-048901	8/12/2019	Fechter emails CEO office employee Milko (with a copy to Lennon) the draft letter responding to ODNI’s personnel security program reassessment. Milko forwards it to Walsh (with a copy to Tran). Walsh approves it and asks Tran to secure Lansing’s approval so the letter can be sent the following day.	Awareness of and Responses to Security Program Lapses						
MW0099	H56114-0007-014080	8/13/2019	CEO office employee Milko emails ODNI a letter responding to the ODNI reassessment of the USAGM personnel security program, with a copy to Lennon, Jansen, and the CEO office.	Awareness of and Responses to Security Program Lapses						
MW0100	H56114-0007-014081	8/13/2019	Letter from Lansing to ODNI states that USAGM has transitioned its investigative functions to NBIB, and encloses a response to the ODNI recommendations along with adjudicator training certificates.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0101	H56114-0007-049178	8/19/2019	Walsh emails Lennon asking if there has been any response to the letter sent to ODNI on 8/13/2019. Lennon responds that a speedy response is unlikely, but she will have security staff follow up to make sure the letter was received and confirm that USAGM is permitted to continue with national security adjudications.	Awareness of and Responses to Security Program Lapses						
MW0102	H56114-0007-012939	8/22/2019	OPM letter to Lansing, copying Lennon and Jansen, with attached report on USAGM Suitability Program notes that USAGM failed to take action on recommendations from 2014 review and lacks proper delegated authority to conduct background investigations. Lansing forwards this report to Walsh upon receipt.	Awareness of and Responses to Security Program Lapses						
MW0103	H56114-0007-048709	8/22/2019	OPM Miltner emails Lansing, copying Lennon, Jansen, Johns, and several others from OPM, attaching a copy of OPM’s final report on USAGM’s personnel suitability program. Lansing forwards the email and attachment to Walsh and states, “I have no idea what this is.” Walsh responds that this is the final report from OPM and he would fill Lansing in the following day. “We knew this was coming and I think we’re in good shape to respond.”	Awareness of and Responses to Security Program Lapses						
MW0104	H56114-0007-011146	9/5/2019	Tran emails Cobb, copying Walsh and Lennon, about an updated position description for Carew. Tran asks if it can be made effective “either Sept 1 or Sept 8”. Cobb responds that she has problems with “backdating actions before HR receives the paperwork” but September 8 is not a problem.	Performance Issues						
MW0105	H56114-0007-048050	9/9/2019	Walsh emails Tran and Milko a draft report from an OCB nepotism investigation, commenting that he does not think it should be forwarded to Lansing.	Performance Issues						
MW0106	H56114-0007-048052	9/9/2019	Third-party investigation into nepotism at OCB sent to Lennon, Walsh and Tran. Conclusion (p.14) says Director Regalado violated nepotism policy.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
					T ¹⁸	R ¹⁹	D ²⁰	H ²¹	J ²²	IT ²³
MW0107	H56114-0007-010692	9/12/2019	Powers emails Tran and Walsh that Thatcher has not even arrived in Korea yet and already wants to extend his trip. Walsh responds: “Shocker!” but says if he wants to extend 1-2 days, that seems worth it but Walsh defers to Powers. Powers says he told Thatcher no extension.	Performance Issues						
MW0108	H56114-0009-091792	11/7/2019	In November 2019, Brady apologizes to retiring employee Hardegen for the time it is taking to process his retirement. On 1/9/2020, Lennon follows up with HR employee Jackson about the status of the delayed paperwork. Lennon states “I apologize if it seems like I’m micromanaging this effort, but we MUST get it right and unfortunately I’m new to the issue and process. Please bear with me.” On 1/10/2020, Lennon asks Johns if he understands the sequencing of events. She states “I appreciate that [Jackson] feels like she’s doing everything she can but we are beyond that level of interaction. To put it more clearly, that level of interaction has failed miserably and we all have egg on our faces. Again, please intervene and begin making phone calls, if you haven’t already.” Johns states “I understand and I’m in the process of calling now. Whenever I have anything to report I will let you know first.”	Performance Issues						
MW0109	H56114-0001-032440	12/31/2019	OTF legal counsel Turner emails Kligerman and others with a revision of the OTF grant agreement and funding annex. On 1/2/2020, Barkhamer emails Kligerman (copying others including Turner, Walsh, and Powers) regarding his concerns with the proposed Return of Funds language, including that OTF has been pushing to change the language that is used with other grantees, and wants something looser than what 2 CFR 200 allows. He states that he is open to making some clarification to the Return of Funds language, but that if OTF wants to appeal to the CEO for looser language, it can. Walsh responds that Barkhamer’s proposal makes sense.	Performance Issues						

APPENDIX A – WALSH TIMELINE

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MW0110	H56114-0096-0054447	1/8/2020	Barkhamer emails Kligerman “I had no intention of crossing lines of communication or muddying the waters. In my Friday e-mail, I said I would reach out to the OTF group on Monday. I was out sick Monday, and catching up on Tuesday, so this slipped until this morning.” Kligerman replies “Sorry. I was being cranky this am. I am just sensitive about the sensitive relationship with grantee GCs.”	Performance Issues						
MW0111	H56114-0096-0144397	4/14/2020	Lennon emails Walsh (with a copy to Kligerman) regarding RFE background investigations, relaying Jansen’s opinion that most RFE staff could be investigated at a Tier 1 level, and attaching an informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement.	Awareness of and Responses to Security Program Lapses						
MW0112	H56114-0096-0144398	4/14/2020	Informational memo from Rosenholtz to OCEO regarding plans to initiate background checks for RFE employees under Article X of the grant agreement states that evaluation of position descriptions will likely lead to many journalist positions being designated national security sensitive, requiring a tiered investigation.	Awareness of and Responses to Security Program Lapses						
MW0113	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						
MW0114	H56114-0006-049645	6/5/2020	Turner asks Lennon to process two special act awards for Tran and Walsh at \$2k a piece.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
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MW0115	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
MW0116	H56114-0007-042295	6/9/2020	Lennon emails Walsh regarding hiring and states “Those entries that are highlighted in yellow . . . The last item which is not on the list is the last minute accretion promotion request we received from Oanh for Armanda to a GS-13. I don’t know how you feel about this one, but Grant approved it prior to Mr. Pack’s appointment and we could make it happen with the next pay period if you would like. “	Performance Issues						
MW0117	H56114-0007-065089	6/16/2020	Tran messages Walsh, “If promoted and Armanda retirees or leaves her position, that position reverts back to the original highest grade, GS-12”.	Performance Issues						
MW0118	H56114-0007-065093	6/16/2020	Tran messages Walsh, “Not a career ladder. Similar to Angelina’s promotion.”	Performance Issues						
MW0119	H56114-0007-065131	6/16/2020	Walsh messages Tran, “Marie told me she has not done anything with Armanda’s promotion. Haven’t discussed with her why, but told her the three of us should discuss tomorrow what to do. I support it, so not sure why it stopped. Maybe Grant never signed it?”	Performance Issues						

APPENDIX A – WALSH TIMELINE

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MW0120	H56114-0007-065138	6/16/2020	Walsh messages Lennon, “oanh just asked me: do you know what happened to armanda’s promotion? did that go through? Oanh said she noticed it wasn’t on the Tier 1/2 spreadsheet, which makes me think it went through under Grant’s approval, but do you know?”	Performance Issues						
MW0121	H56114-0060-005478	7/17/2020	Lennon forwards to Walsh the July 2020 OPM Suitability Program report, who responds: “Wow I was wondering when this follow up report would come out. Not good. Let me know how I can help.”	Awareness of and Responses to Security Program Lapses						
MW0122	H56114-0030-023607	7/20/2020	Lennon emails Cullo, copy to Newman, a status update and initial response to questions on the July 2020 OPM Suitability Program report, noting that she has had “several very serious conversations with [her] staff” and agreeing that the recommendations are critical. She provides detailed answers on some issues. She then forwards the email she had sent, to Walsh as an FYI. He responds that her response is “fantastic” and that he “also hope[s] [they] can underscore with Diane [Cullo] that this goes back years (at least 2012) and that the agency has really focused on this and has come a long way.”	Awareness of and Responses to Security Program Lapses						
MW0123	H56114-0043-039428	7/23/2020	Walsh emails Lennon: “Hello from leave. I just saw the most recent CEO statement. Is that the OPM security audit? Are you doing okay?”	Awareness of and Responses to Security Program Lapses						
MW0124	H56114-0043-025906	8/4/2020	Walsh messages Lennon that she should mention the OPM HR Office audit history to Cullo so they can’t claim surprise. He asks whether OPM recently did a follow-up.	Performance Issues						

APPENDIX A – WALSH TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ¹⁷					
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MW0125	H56114-0030-035023	8/5/2020	Email from Walsh to himself summarizes his meeting with Pack and team, including a discussion of the recent OPM security audit. Walsh explained that these were longstanding issues of previous Agency leaders not taking these OPM reports seriously, but that when he learned of the 2018 audit results, they increased resources to fix the issues, and made it a priority.	Awareness of and Responses to Security Program Lapses						
MW0126	H56114-0070-003837	8/5/2020	Lennon emails Cullo forwarding the email from Holbert (SNAP) to Jansen on status of the ODNI recommendations and Jansen’s draft reply. Lennon tells Cullo that the CAP drafts are nearly completed and will be forwarded to her for review. Lennon asks Cullo how they should provide two-week updates. “I would also appreciate knowing whether your intent is for us to respond to both reports prior to the investigation that is being planned to look into the USAGM security program. This is obviously a critical and extremely high-profile issue and I want to make sure that we are placing our resources into the actions you want us to take.” Lennon forwards the email to Walsh.	Awareness of and Responses to Security Program Lapses						

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Oanh Tran Summary

Name: Oanh Tran, Executive Director

Summary of Basis for Investigative Leave:

Tran was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- Her background investigation being performed when USAGM lacked proper authority.
- Failure to remedy personnel/security concerns escalated to her attention and within the scope of her role.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Tran's conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Tran. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Tran's investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Tran. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Tran is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

We are aware of concerns within USAGM relative to Tran and the personnel security issues currently under investigation more broadly within the agency. Our document review indicated Tran had awareness of issues with USAGM's handling of personnel security issues, but provided us limited insight into Tran's role with respect to or level of discretion or authority relating to the remediation of those issues. We recognize that this could be a reflection of limitations in our document review. Further, as noted above, USAGM has access to documents and information to which we are not privy, and which may speak more fully to Tran's role with respect to these issues.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Tran's:

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Although no documents potentially relevant to consideration of Tran's adjudicative criteria have been identified in the Timeline, the performance issues outlined below are potentially relevant to consideration of Tran's reliability, discretion and judgment.

Performance Issues

Travel Issues

The documents reviewed indicate that the Agency revamped travel policies and improved supervision and centralization of travel in the fall of 2018, as the Haroon Ullah travel issues came under investigation.¹ However, that revised travel policy process was already under way for other reasons,

¹ E.g., H56114-0007-045556 (August 21, 2018 email where Tran tells the Travel Office that they're working on a new process for approving travel and that Tran will likely be the one approve all travel); H56114-0002-006731 (September 7, 2018 email where Tran notes that Milko is drafting a new travel policy/process where "[e]ssentially offices will manage and stay within travel budgets"); H56114-0002-005655 (September 17, 2018 email where Tran asks pointed questions about Powers' travel that seem to be instigated by this new approach to scrutinizing travel); H56114-0002-003346 (October 3, 2018 email where Tran asks Ullah pointed questions about his upcoming travel that seem to be instigated by the same); H56114-0002-002724 (October 4, 2018 email noting they need to "crack down" on Thatcher's travel and discussion that Tran is handling all travel approvals that come from the CEO office and that they've talked to Lansing who wants to shrink Thatcher's travel); H56114-0006-022302 (October 12, 2018 email where Walsh says that he's working with Tran "to define a more stringent travel policy" and finding out that currently

including budgetary concerns.² As early as April 2017, John Lansing wanted the CEO office to approve all federal, non-firewall-protected travel.³ The fall 2018 policy required the travel justification memo with approval from CEO and certain monthly reporting.⁴

Tran was part of the policy revision process.⁵ She was also part of the approval chain for Ullah's travel, at least informally or for part of the time before the Travel Office detected fraud (Fall 2017, when he started, through August/September 2018, when issues arose).⁶ Although we have not identified any regulation that barred Tran from being part of the approval process on account of her rank being below his at the time, the documents reviewed have also not indicated any official delegation of approval authority to Tran. They do demonstrate that she was part of the approval process in numerous instances.

The documents indicate that Tran seemed suspicious of Ullah's travel even before his issues arose—although potentially only from a budgeting perspective.⁷ Once the Ullah investigation started, there was accelerated scrutiny of travel and the formalization of travel policy changes.⁸ Further, Ullah's travel issues were somewhat unique since he was using fraudulent documents to submit for expenses that he did not incur. However, he was also taking an inordinate number of trips that were expensive and may have bled over into personal travel. Documents indicate that others were also engaged in questionable or borderline travel.⁹ However, it seems based on contemporaneous discussion and travel expense analysis,

there is no specific travel budget for any entity and they use what they feel is necessary); H56114-0007-057651 (December 3, 2018 email where Walsh says that the process for travel justifications is for Tran “to take a look and Lansing signs off”); *see* H56114-0099-001564; H56114-0096-0132406; H56114-0007-013123 & H56114-0007-013134; H56114-0007-014175 & H56114-0007-014184 for emails explaining the official policy announced in November 2018 and amended in 2019.

² H56114-0085-034875. *See also* citations *supra*.

³ *Id.*

⁴ *See* citations *supra*.

⁵ *See* citations *supra*.

⁶ *E.g.*, H56114-0002-031770 (February 2018 email showing Tran's role in approving one of Ullah's trips); H56114-0002-012591 (voucher for Ullah's Oman trip, approved by Tran – July 2018); H56114-0085-038610 (August 2018 email where Tran approves Ullah's Geneva trip). *But see* H56114-0006-022560 (October 2018 email with an E2 screenshot of all of Ullah's travel where Tran is noted as the approver on only recent trips and there is no approver noted for most of the trips which were earlier); H56114-0085-026987 (December 14, 2018 email from Tran to OIG for the investigation into Ullah, saying she doesn't have anything on one of Ullah's trips and OIG should consider asking Matthews “who was doing his travel at the time”).

⁷ *E.g.*, H56114-0043-028867 (February 2018 email where Tran asks questions about why Ullah needs to fly from LA back through NYC and not to DC, and sending his response to Walsh, and Walsh suggesting they discuss); H56114-0085-036449 (Tran raising questions about the same trip); H56114-0002-047998 (July 2018 email where Tran asks questions about Ullah changing his itinerary for a trip); H56114-0085-033395 (the Travel Office telling Tran that they told Ullah Tran would have to approve any changes to that trip); H56114-0007-063055 (August 14, 2018 email, the day before Mower complains to Walsh about Ullah's travel, where Tran emails Walsh about Ullah's booked Geneva trip, saying: “Another travel for Haroon. Were you aware?” and notes the trip is short and costs a lot and asks how to handle, and Walsh responds that he didn't know about the trip and they need to tell Ullah he needs to stay within budget; Tran approves the trip and Walsh lets Ullah know that, with Ullah responding that he is filing a false claim again Mower, H56114-0085-038610, H56114-0002-047544).

⁸ *See* citations *supra*.

⁹ *E.g.*, H56114-0002-002724 (October 4, 2018 email noting the need to “crack down” on Thatcher's travel); H56114-0007-057095 (December 2018 email chain with comments on Thatcher's travel); H56114-0076-062630 (June 2019 email discussing issues with Thatcher's travel and his “lack of professionalism and work ethic” as well); fall 2018-spring 2019 issues with Kazmi's travel (H56114-0006-049643; H56114-0007-055029). *See also* citations *infra*, including footnote directly below.

that he was one of the worst offenders in the short period he was with the Agency.¹⁰ There are other instances, based on the documents reviewed, that suggest travel at the senior management level had been relaxed and not carefully supervised for adherence to travel rules or economic prudence.¹¹

Agency travel policies in the fall of 2018, and formalized again in the spring of 2019, did centralize control for travel formally under the CEO Office. The documents indicate that Tran would organize and refer all travel of certain Agency components to Lansing for approval and to ensure everyone used a Travel Justification Form. They also started scrutinizing travel more and pushing back against people's requests and monitoring and formalizing travel via budgetary controls.¹² In doing so, some of those used to easier travel rules expressed surprise or suggested the process was too stringent.¹³

Tran's Promotions

Joan Mower has claimed that Tran was promoted to keep her quiet about what she knew about improper conduct, including around travel, and that she was promoted through to SES rank without competition and to take on SES duties that were secretarial in nature. There is some question as to whether Lansing promoted Tran through the Agency in order to rely heavily upon her in a deputy-type role¹⁴ and whether she received those promotions following the official rules.¹⁵

¹⁰ H56114-0006-048748 and H56114-0006-048749.

¹¹ *E.g.*, H56114-0071-055575 & H56114-0071-055576 (November 2012 email chain and memo where Mower questions travel by two Governors and the CFO's office reviews); H56114-0070-008526 & H56114-0070-008527 (March 2017 email chain and memo where Mower complains of improprieties including travel); H56114-0007-063055 (in an August 14, 2018 email about Ullah's travel, Tran emails to Walsh: "There was an issue early on with Senior Staff frequent travels (when Jeff T and Andrea M were on board). Rob worked with Grant and Renea to impose a policy that each office must remain within their travel budget."); H56114-0007-046572 (an August 16, 2018 email where Mower emails Walsh that the fact that the Front Office is reviewing travel policy "underscores the seriousness of this issue," and notes several other issues she sees with agency travel, including that premium travel "is highly controversial and [a] longstanding subject," it cannot be approved by one subordinate in grade to the traveler, and it must be reported to GSA); Incident Report from Business Development on Mower's report to LER on August 15, 2018 regarding Ullah's travel, noting that Mower told Walsh "that a former Agency Head to leave the Agency because of his sketchy travel set up"; H56114-0007-034738 (December 10, 2018 email where Mower notes that the IFF travel "has long been a popular boondoggle funded to the tune of \$220,000 by USAGM/RFA in 2016 for example"); H56114-0007-057498 (email the same day where Walsh notes that they had the same issue with a DW conference earlier that year and ended up coordinating to reduce footprint); H56114-0007-034030 (continuation of that discussion); H56114-0007-055029 (March 6, 2019 email where Tran asks questions about Kazmi's travel, saying it seems excessive and noting "Barbara and Terry, as you know, would approve anything.")

¹² *See citations supra.*

¹³ *E.g.*, H56114-0075-0006805 (VOA employee asking if personal travel could be partially covered or not counted as travel if the employee brings back stories, and discussion about how these violate regulations and that these types of practices had been long-standing); H56114-0002-002724 (October 2018 email where Thatcher describes the new travel policies as "contortions"); H56114-0002-005655 (September 2018 email where Powers seeming exasperated by the additional explanation for the new travel policy saying he though his trip was "pretty straightforward").

¹⁴ She also had a role in communicating with the Board, *e.g.*, H56114-0071-055213 (a July 2015 email describing Tran's role in the Agency's processing of OIG hotline complaints and in informing the Board).

¹⁵ H56114-0007-045326 (August 28, 2018 email where Tran tells Lansing that Cullo is trying to block the two new Deputy Director SES positions and Lansing asks Kligerman for a legal opinion on the CEO having the right to run the agency and the Board still exists and approved the hires); H56114-0096-0051316 and H56114-0096-0051317 and H56114-0007-062161 (Kligerman circulating a draft memo and reaction to that); H56114-0034-021958 (November 2018 complaint from Mower about Tran's promotions and Cobb's comments to Lennon and Walsh about her concerns about Tran's promotions as well); H56114-0007-058136 and H56114-0007-058500 (Walsh's reactions to the complaints); H56114-0075-0020576 (September 2019 email where Mower says that Tran's SES position was filled

Other

Tran was copied on the discussion on a “creative” way to hire Shawn Powers and offer him a pay at a higher step,¹⁶ potentially pre-arranging for Chelsea Milko to have a new position¹⁷, finding a way to pay for an individual’s travel and work before the date he was officially sworn into his position¹⁸, with Kazmi’s Senior Advisor position transition,¹⁹ and with Armanda Matthews’ promotion which raised questions²⁰. Kligerman and Turner in a June 2, 2020 email chain also discussed how Tran was overstepping her role by trying to control the process of onboarding Michael Pack.²¹

with no interview). *See also* H56114-0075-0022204 (close to his departure from the Agency, Lansing asked Turner to include Lansing’s performance evaluation of Tran, even though it had not been 120 days yet. Lansing recommended that she receive a bonus and pay raise as well. Tran and Turner met that December, and based on Tran’s email response, it sounded like Turner planned to do his own 120-day evaluation. Tran was upset and wanted Tran to honor Lansing’s evaluation. She also complained that she was being singled out because she was female and retaliated against for an incident involving expedited RIF authority for OCB.); H56114-0006-049645 and H56114-0006-049646 (Turner approved a \$2,000 Special Act award for Tran “for her leadership in maintaining the continuity of Agency’s operations during the Coronavirus (COVID-19) pandemic and in executing key programs and activities to highlight the Agency’s critical role in the coverage of COVID-19.”)

¹⁶ H56114-0002-016717 and H56114-0002-016718, H56114-0002-049278 (June 2018).

¹⁷ H56114-0007-056103 (February 2019 email).

¹⁸ H56114-0007-027780 (March 2019 email).

¹⁹ H56114-0085-063175 (October 2019 email).

²⁰ H56114-0007-042295; H56114-0007-065089; H56114-0007-065093; H56114-0007-065131; H56114-0007-065138.

²¹ H56114-0075-0007566.

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J ²⁷	IT ²⁸
OT0001	H56114-0071-055213	7/14/2015	Cabral (Senior Policy Advisor at the Agency) emails OIG that the processing of OIG hotline complaints has changed. The Office of General Counsel at the Agency will no longer process the complaints but Cabral will, and that Cabral has experience with this from working under OGC before, and they should copy Tran, who will highlight any hotline issues to the Board as necessary.	Performance Issues						
OT0002	H56114-0085-034875	4/18/2017	Fallon (chief of staff) emails Kligerman, copy to others, including Lennon and Tran, summarizing the meeting the day before to discuss the agency’s travel processes and “possible directions for tightening up our position.” He says he gave the CEO a readout and the CEO was broadly supportive, and lists out what the changes would be, including that the CEO see and sign off on all federal, non-firewall protected travel and “[the CEO] believes strongly that, given the fiscal situation, [the agency] need[s] to put [themselves] in the best position possible when defending [their] travel budget.” There is also a discussion about setting travel caps. There is further discussion through May 2017. Tran then forwards it to Walsh on 8/15/18, more than a year later, with no text in the email body.	Performance Issues						
OT0003	H56114-0002-031770	2/20/2018	Example of Tran being responsible for approving Ullah’s travel (trip to Boston the next day for Ullah).	Performance Issues						

²² No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

²³ Trustworthiness

²⁴ Reliability

²⁵ Discretion

²⁶ Honesty

²⁷ Judgment

²⁸ Use of Information Technology

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0004	H56114-0002-022929	4/25/2018	Fritschie asks various individuals to review testimony that Dr. Swett will deliver the next day. She tells Kligerman “I could really use your eyes on the interpretation I’m offering on the \$50.5m required in FY17 (and \$55m this year) for internet freedom funds. I think her argument that somehow those funds are earmarked just for circumvention is spurious.”	Performance Issues						
OT0005	H56114-0069-014122	4/25/2018	Jansen, through Trimble, sends Lansing a memo on Reassessment of Agency Positions for National Security Sensitivity Levels.	Awareness of and Responses to Security Program Lapses						
OT0006	H56114-0043-028867	4/27/2018	Tran emails Ullah asking why he changed his itinerary for flying back from LA through NYC, instead of DC. Ullah responds that he’s going to speak at Yale that weekend and Monday and then would telework and come back and in his free time, check out hospitals for his father. Tran forwards to Walsh who proposes discussing it with her Monday (it’s a Friday).	Performance Issues						
OT0007	H56114-0085-036449	4/27/2018	Tran forwards a booking for Ullah’s upcoming NYC travel, to Walsh, with the comment: “???”	Performance Issues						
OT0008	H56114-0069-014120	5/8/2018	Lennon brings Trimble on board with the 1400 letter and Trimble states that he supports Lansing signing the letter. Tran sends the letter signed by Lansing.	Awareness of and Responses to Security Program Lapses						
OT0009	H56114-0002-016717	6/19/2018	Cobb, Tran, Lennon and Walsh, among others, email to find a “creative” way to offer Powers pay at a higher step by considering his hire to be a reappointment from State under a Career Conditional Appointment in the competitive service.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0010	H56114-0002-016718	6/19/2018	Statement from Ullah to Cobb to support hiring Powers’ at higher pay.	Performance Issues						
OT0011	H56114-0002-049278	6/19/2018	Tran has Ullah approve pay for Powers after Cobb finds a way to give him a higher step under the superior qualifications pay setting authority.	Performance Issues						
OT0012	H56114-0085-040897	7/12/2018	Ullah emails Walsh, copying Tran, that he is travelling to New York for meetings the next day. Tran forwards the email to Illum to file in Ullah’s travel records.	Performance Issues						
OT0013	H56114-0002-012591	7/20/2018	Voucher approved by Tran for Ullah trip to Muscat, Oman from April 6, 2018 to April 17, 2018.	Performance Issues						
OT0014	H56114-0002-047998	7/30/2018	Tran emails Ullah asking questions about his recent changes to an upcoming trip, including why he has to go to NYC for the weekend. He responds that he has to speak at a digital metrics roundtable up in NYC that Sunday and prepare and says he could come back to DC Friday and drive back up but he has patella tendonopathy so will need to take business class on the way back. Walsh is copied.	Performance Issues						
OT0015	H56114-0085-033395	7/30/2018	Ramos emails Tran, telling her that Ullah called Travel about New York trip arrangements, saying that he needed to attend a meeting on Friday and be in New York over the weekend. Travel told Ullah they had not booked a hotel for him, and Ullah said he would take care of it. Travel let Ullah know that no changes could be made without Tran’s approval.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0016	H56114-0007-063055	8/14/2018	Tran emails Walsh regarding Ullah’s requested authorization to travel to Geneva for the Concordia Media Conference. She says: “Another travel for Haroon. Were you aware?” She notes that the trip is short and is costing the Agency a lot due to business class accommodation for a medical waiver and a non-refundable fare. She notes: “There was an issue early on with Senior Staff frequent travels (when Jeff T and Andrea M were on board). Rob worked with Grant and Renea to impose a policy that each office must remain within their travel budget.” She asks how to handle. Walsh responds that that he didn’t know of the trip and he thinks they need to tell Ullah that he needs to stay within OPR’s travel budget and Walsh can talk to him. Walsh emails later that he told Ullah to go see Tran.	Performance Issues						
OT0017	H56114-0085-038610	8/14/2018	Tran emails her approval of Ullah’s upcoming Geneva trip.	Performance Issues						
OT0018	H56114-0002-047544	8/15/2018	Walsh emails Ullah that Tran has approved his trip to Geneva (see other emails in the Timeline this day and the day before). Ullah responds that he is talking to Lennon and am filing a false claim against Mower.	Performance Issues						
OT0019	H56114-0007-046548	8/15/2018	Walsh emails Mower after they talked that day about Ullah’s travel that Walsh spoke to the travel office and “[t]hey went through everything with me and Haroon is doing everything right w/r/t this trip” [the Geneva trip]. Walsh says that it fits into guidelines and the budgeting and OCR vetted his medical waiver and it looks “very legit” and the travel folks recommend approving it. He notes that the agency is putting in place a more formal travel approval process going forward and says it has been in the works for a few weeks “because of other travel issues.” Later in the chain, Walsh notifies Tran and Lennon of his meeting with Mower that day. He notes that he’s confident that proper travel procedures are being followed.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0020	H56114-0007-063088	8/15/2018	Tracey Jacobsen interviewed for a position. Leading up to that, she purchased a ticket to DC. Walsh asks whether she can reschedule because Chairman Weinstein will be in Tokyo. He states that he asked the team whether they could reimburse Jacobsen for the flight change fee or pay for her to come on a rescheduled day. After the interview, Walsh tells Jacobsen that she should get her references together. The two keep in touch regarding the position. Jacobsen states that she heard from Tran who asked her if she could come back to DC.	Performance Issues						
OT0021	H56114-0007-046572	8/16/2018	Mower emails Walsh that he should assure Ullah that no one is singling him out, that the fact that the Front Office is reviewing travel policy “underscores the seriousness of this issue,” and notes several other issues she sees with agency travel, including that premium travel “is highly controversial and [a] longstanding subject”, it cannot be approved by one subordinate in grade to the traveler, and it must be reported to GSA.	Performance Issues						
OT0022	H56114-0007-062470	8/17/2018	Walsh emails Cobb asking if he could beef up his ECQ essays before they got to OPM for the Deputy Director Ops positions. Walsh tells Tran that Haroon sent the document out without clearing with anyone and “It was not great.”	Performance Issues						
OT0023	H56114-0007-045556	8/21/2018	Tran emails De Los Rios in the Travel Office confirming that Thatcher’s travel should be moved to Tran for approval as it’s past travel. She notes they’re working on a new process for approving travel and that she (Tran) will likely be the one approving all travel.	Performance Issues						
OT0024	H56114-0007-062769	8/22/2018	Walsh forwards conversation between Tran, Cobb, Lennon, and Dupree to Ullah regarding Ullah’s selection for Deputy Director position.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0025	H56114-0007-045326	8/28/2018	Tran tells Lansing that “Diane Cullo (the part-time political appointee working with Pack on his prep) reached out to Schuck this morning essentially saying she wanted his help blocking the two Deputy Director SES positions. It sounds like Pack is asking her to do this. She wanted a legal document from Dave that she then could forward to OPM explain why they shouldn’t approve the positions – which is crazy since our legal interpretation is that this is perfectly legal for a number of reasons.” Lansing replies “I think Dave should write a clear legal opinion making the unambiguous case that per the 2017 NDAA the ceo has the right and duty to continue to operate the agency. Diane herself affirmed that with us in our meeting. He should also note that the Board still exists as a Senate confirmed body and they unanimously support these hires.”	Performance Issues						
OT0026	H56114-0007-062161	8/30/2018	Kligerman and Walsh discuss SES appointment memo with Tran and Lansing copied.	Performance Issues						
OT0027	H56114-0002-006731	9/7/2018	Walsh in a discussion about approving someone else’s travel, states: “Ok with me but defer to Oanh on all travel stuff!” Later in the chain, Tran notes that Milko is drafting a new travel policy/process, noting that “[e]ssentially, individual offices will manage and stay within the travel budgets.”	Performance Issues						
OT0028	H56114-0002-005655	9/17/2018	Powers emails Stefanou and Ullah asking them to help get his travel approved to attend a University of Pennsylvania colloquium. Tran on 9/18/19 notes to Ullah that Powers needs to explain how the trip is connected to the Agency mission and asks whether he can have a stronger speaking role at the conference. Ullah emails Powers that he will “push it through.” Powers responds that he thought this was pretty straightforward.	Performance Issues						
OT0029	H56114-0007-061302	9/17/2018	Chisolm emails Walsh with an order needing Lansing’s approval for an Apple Watch and Beats Headphone for Ullah. Walsh forwards to Tran with “angry characters” and says “Let’s discuss.”	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0030	H56114-0002-004607	9/19/2018	Email among Powers, Tran, Ullah, Walsh, Stefanou, and Ostrander-Damon discussing finalizing the details for an event at the Newseum. The Agency already spent its allotment for FY18 and Powers is trying to figure out a way to pay for the food and beverages, since Luer says that the OPR funds cannot be used for food. Stefanou emails Walsh and Tran to loop them in to find other mechanisms to pay for it. Stefanou responds to Ullah and Powers that she spoke with Tran about it and they should chat.	Performance Issues						
OT0031	H56114-0002-003346	10/3/2018	In response to his list of proposed travel for October 2018, Tran responds to Ullah that it would be nice to know in advance before he commits to any speaking engagements, and that they've been working on finalizing travel guidelines but she has questions in the meantime. She lists out the questions including about a trip on a federal holiday, the connection of his trips to the Agency's mission, and the goals and objectives for the trips. Walsh is copied. Ullah was under investigation by this point by at least the Agency.	Performance Issues						
OT0032	H56114-0002-002724	10/4/2018	Tran emails Thatcher regarding an upcoming trip he has scheduled that his travel is approved but that his future travel and meeting commitments must be pre-approved by the CEO. On 10/5/2018 Walsh writes to Balazs, Tran, and Ullah: "We really need to crack down on Gary's [Thatcher's] travel - it seems like way too much." He notes that Tran who is handling all travel approvals that come to the CEO office, talked to Lansing about this the day before and he wants to shrink Thatcher's list of trips and personally have visibility into each request. Ullah and Balazs agree with Walsh.	Performance Issues						
OT0033	H56114-0002-003141	10/4/2018	When the CEO Office is asked to approve a Honolulu trip for Thatcher, Tran emails Ullah: "We spoke about this travel, didn't we? Did you tell Gary [Thatcher] your disapproval? We agreed that this trip is not necessary and it doesn't have clear defined goals and objectives. As Gary reports to you, could you please let him know?"	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0034	H56114-0007-060547	10/4/2018	Matthews asks the Travel Office to be removed from Ullah’s travel authorizations and vouchers and to add Stefanou instead. Walsh responds to Matthews, copy to Tran: “Good idea”.	Performance Issues						
OT0035	H56114-0006-021861	10/9/2018	Turner emails OIG employee Warffeli providing information about Ullah’s travel. On 10/10/2018, Warffeli says that she would like to speak to Tran or Walsh about it, and asks if she can be sure that they will not tell Ullah about the investigation. Turner replies that they are both discreet, but he is not sure Tran knows about the travel issue.	Performance Issues						
OT0036	H56114-0006-022560	10/10/2018	Ramos emails Turner and OIG employee Warffeli a list of trips taken by Ullah while at USGAM, and it shows no “Approver” for the trips before October 2018 (though other email traffic suggests his travel before that date was approved by various people, including Tran).	Performance Issues						
OT0037	H56114-0006-022302	10/12/2018	Turner emails Filipkowski and Jones, copy to Barkhamer, asking if all the offices have a set travel budget, noting that Walsh is trying to work with Tran “to define a more stringent travel policy” and wanted to know. On 10/15/2018, Filipkowski responds that there is no specific travel budget for any entity and “[t]hey can use what they feel is necessary.”	Performance Issues						
OT0038	H56114-0007-038847	11/9/2018	Lennon emails Walsh and Cheng, attaching a draft response to the OPM draft report and Management Directives implementing the report. Walsh responds that he was speaking with Tran and a USAGM Board member asked for a security update at the following week’s Board meeting.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J ²⁷	IT ²⁸
OT0039	H56114-0007-036772	11/23/2018	Cobb forwards to Lennon an email from Mower on 11/20/18 that alleges “More Mismanagement/Abuse in the Front Office of USAGM”, asking if Cobb can pass it along to OIG, saying she will try to reach out to OPM. Mower notes she’s a finalist for SES Deputy Director and questions why they are opening a third SES position and alleges that Tran has been pre-selected for the position and that “many in the building” are asking why and if it’s because Tran has been “covering for [Lansing] on various illegalities” including Premium Travel for Ullah and long summer telecommuting. She claims Tran moved from GS-13 to GS-15 without advertising and is now going to get an “undeserved” SES position, the duties of which are “basically secretarial tasks”. Cobb in her email to Lennon says that “it will look pretty bad” for Lansing and the CEO’s office if Mower goes to OIG on this. Cobb thinks the position is a weak SES though HR “did the best [it] could” in classifying the position. She notes employees have come to her office saying that Tran “has finally figured out a way to get her SES” and OIG might see the new position is “very, very similar” to Tran’s current position. She notes that Tran “has not competed for any of her promotions” and explains her promotion history and the role of Lansing. She says that Walsh said Lansing was concerned but they would make sure everything was done legally. Cobb says that she is afraid that if OIG were to look at this, it would reinforce the April 16, 2018 OIG report on all the complaints about the Agency’s hiring practices. Lennon forwards the email to Walsh on 11/27/18.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0040	H56114-0007-058136	11/28/2018	Walsh responds to Lennon’s email from 11/27/2018 forwarding Cobb’s email from 11/23/18 on Mower’s complaints about Tran’s promotions and her being pre-selected for an SES position. He says he has never had the impression this was pre-selected and he doesn’t want to be a part of anything against regulations so he asks if they can discuss. He expressed his annoyance at Cobb’s comments though he notes he likes Cobb, because he has had multiple conversations with HR about the position and this never came up. He says they could have tweaked the approach if they had raised it but doesn’t want to now because he doesn’t want to lend credence to Mower’s narrative. He calls the position “very legitimate” and one Lansing wants to fill through a merit competition. He explains in detail why they created the role and why it merits the SES level. He then adds individualized reactions /rebuttals using in-line text, to each of Cobb’s points. He says that Mower’s story is unfair to Tran, who has done nothing wrong.	Performance Issues						
OT0041	H56114-0034-021958	11/29/2018	Cobb re-forwards her 11/23/18 email to Lennon commenting on Mower’s complaints about Tran’s promotions and the SES position Tran has allegedly been pre-selected for, back to Lennon, noting that she (Cobb) takes it that, in receiving the signed SF-52 for the Executive Director recruitment, signed by Walsh and Lansing, Cobb’s email and issues “had no bearing on them whatsoever” and says it would be helpful if Walsh could send her something official indicating that they are to move forward with the recruitment despite Cobb’s concerns but Cobb is sure that won’t happen. She notes that this probably isn’t the last they’ll hear from Mower or the “quite a few” who feel as Mower does.	Performance Issues						
OT0042	H56114-0007-057651	12/3/2018	Walsh explains to Matthews, who asked what the procedures were for travel justifications, that Tran takes a look and Lansing signs off. She asks what to do if they’re both traveling. Walsh says he will take a look.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0043	H56114-0007-057392	12/6/2018	Tran emails Lansing a travel approval request for Thatcher the following week. She forwards the email to Walsh, saying: “FYI. Thanks for holding off approving.” He replies on 12/7/2018: “Why did he wait until the last second to request this trip?!?”	Performance Issues						
OT0044	H56114-0007-034738	12/10/2018	Mower emails Tran and Walsh regarding the Internet Freedom Festival (IFF) for 2019: “Given the sensitivities over group travel / junkets / boondoggles to European venues etc, hope someone is monitoring this one! Maybe not a good idea to encourage ALL USAGM to sign up for 4 days in Valencia at USG expense?” Walsh responds that he talked to Powers who will ensure there will be minimal attendance, and thanks her for flagging. She responds: “Great. This has long been a popular boondoggle funded to the tune of \$220,000 by USAGM/RFA in 2016 for example.”	Performance Issues						
OT0045	H56114-0007-057498	12/10/2018	Walsh forwards to Powers Mower’s email questioning sending numerous people to IFF in Valencia, summarized separately on the timeline, saying that as much as it pains him to say Mower is right, she does seem right that they don’t want that many USAGM folks attending, and “[w]e had this same issue with a DW conference earlier this year” and he ended up coordinating as to reduce footprint and maybe that should be done here. Powers responds that he’s on it and will ensure footprint is minimal and it is being monitored closely.	Performance Issues						
OT0046	H56114-0007-034030	12/13/2018	Tran emails Powers and Walsh, asking them if, in light of Mower’s concerns about the Internet Freedom Festival, Hurley’s proposed travel to attend it should be approved. Walsh and Powers agree that Hurley should attend, but that overall USAGM and RFA participation should be kept to a minimum.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0047	H56114-0007-057095	12/14/2018	Lansing, in response to Thatcher’s report on his trip to Strasbourg that the US European Command would not provide funding for an RFE/RL effort to monitor Ukrainian elections in 2019, from the day before, says: “...and we had to go all the way to Strasbourg to hear ‘no’? Ridiculous.” Lansing’s email is to Tran and Walsh. Walsh responds, copying Powers too: “As Shawn point out, we’ve been ‘Thatchered.’ I think Shawn is also right that on a positive note, this makes it easier for us to say no to his trip requests like this.”	Performance Issues						
OT0048	H56114-0085-026987	12/14/2018	OIG employee Warffeli, handling Ullah’s investigation, emails Tran asking about Ullah’s March 2018 trip to Chicago and the stated reason for the trip. Tran responds that she doesn’t have anything on that and Warffeli should consider asking Mathews “who was doing his travel at time.”	Performance Issues						
OT0049	H56114-0007-056103	2/4/2019	Tran emails Walsh: “Please take a look at the attached GS-14 PD (both PDF and Word) for Chelsea [Milko] as established when the job was announced initially. Here are some thoughts to add to her PD as we discussed [providing her thoughts].” Walsh responds on 2/6/19 about adding a sentence to end of the intro, noting: “It’s vague and allows us to have Chelsea play an integral role in the Secretariat once we get that going[.]” He also says: “Re: the Secretariat, we should map out options for creating that very soon. I have a few different ideas, as I’m sure you do too.”	Performance Issues						
OT0050	H56114-0007-055029	3/6/2019	Tran emails Walsh, asking him to look at Kazmi’s “another travel request,” saying that it seems excessive and noting it is also on very short notice. She adds: “Barbara and Terry, as you know, would approve anything.” Walsh responds that he’s okay with it as long as BD and TSI have budgeted for it and if VOA and RFA are on board. He also says they should find a way for all TSI, OMS, and CRO requests to go through him (Walsh) first.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0051	H56114-0007-028846	3/7/2019	In an email discussion that ends on this date, Cobb raises questions about why Capus’s start date in his paperwork is 2/17/19, instead of 2/25/19, when he was sworn in. Tran says that she would like to start him on that earlier date so that they could take care of his travel, but if that can’t be done, they will process his travel another way. Cobb responds that she would “like to stay with the regs,” so she thinks 2/25 “would look better than trying to explain a situation where [the Agency] had him work without taking the oath,” but then Cobb learns that he actually worked some days before the oath and says they will change the effective date to earlier, to make sure he is paid for days he actually worked. She says that she will make a note in the file that unknown to HR, the CEO/Agency Director asked him to work prior to the oath as “[t]hat way it won’t look like HR authorized it in case we ever get audited.” Walsh is copied.	Performance Issues						
OT0052	H56114-0007-027780	3/13/2019	In an email discussion about the VOA 365 roll-outs and avoiding Smith-Mundt violations and what funds to use, Fritschie says in the earlier 3/11/19 email that she is “uncomfortable” with using any funds besides rep funds to do events and asks Kligerman if there is legal language around the use of administrative funds that points to “other purposes”, as it would be helpful if criticized. Carew notes in response on 3/13/19 that “as US agencies go, we are at the lower end of the spectrum on events frequency and scope”. The email chain continues that day, including after a meeting with Lansing, and there’s a suggestion to do an overseas event. Walsh notes to Carew only that he is glad they met with Lansing and Lansing is “really frustrated with you know who.” Carew responds: “I know. I hate using John’s time like this.” She adds that with overseas events, they can partner with grantees so that the Agency may not need to spend anything. Tran and Turner are copied on the earlier discussion but not at the end of the discussion on using Lansing’s time and his being frustrated.	Performance Issues						

APPENDIX A – TRAN TIMELINE

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					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0053	H56114-0085-029961	3/18/2019	Andross forwards to Tran the OIG Draft Report: Inspection of USAGM Governance, saying she noticed OIG didn't copy USAGM Inspections so she is sending it to Tran, and Rosenholtz sent it to Walsh and she believes, OGC, earlier that day.	Performance Issues						
OT0054	H56114-0007-054082	3/27/2019	Tran forwards to Walsh a letter from OPM regarding USAGM's response to the OPM delegated examining unit evaluation, "Marta's case is in the attached response." Walsh replies that he is speaking with Lennon and Kligerman later and asks if Tran would like to join. Later, he tells Tran, "Just fyi – we fixed this".	Awareness of and Responses to Security Program Lapses						
OT0055	H56114-0076-062630	6/25/2019	Walsh emails Powers and Tran, asking for the status on approving Thatcher's Korea trip, saying that Liu reached out making an argument that it should be approved and she is making a good case. Tran responds that Liu and her team are on the ground so what else is needed. Powers responds that he is having a hard time approving the trip and gives reasons, including that Thatcher was lead on USAGM's North Korea report which was "an utter disaster". He said Thatcher never responded to his email about serious problems with that. Approving the trip "would appear to reward [sic] his lack of professionalism and work ethic." He thinks someone else from USAGM could go more cheaply too.	Performance Issues						
OT0056	H56114-0007-014175	7/8/2019	Andross emails Powers, Tran and others, with copies to Walsh, Lennon, and Cheng, tasks assigned in response to an OIG inspection of USAGM governance. Tran and Milko are responsible for a process for more efficient executive decision-making; Powers is responsible for a policy to meet statutory requirements related to VOA editorials. In addition, HR is responsible for enforcing the completion of annual performance reviews.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J ²⁷	IT ²⁸
OT0057	H56114-0001-058637	7/30/2019	Letter from ODNI to Lansing enclosing a draft report on ODNI’s 2018 re-assessment of USAGM’s personnel security program. The letter states that USGM has failed to address recommendations made in 2015, and must cease conducting national security background investigations and adjudications. The attached report notes that BBG/USAGM’s delegated authority to conduct investigations expired in 12/13/2012. On 8/2/2019, Tran forwards the letter and report to Jansen, Lennon, and Walsh. On 8/5/2019, Walsh forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses		X	X		X	
OT0058	H56114-0077-010704	8/2/2019	Tran emails Jansen (with a copy to Lennon and the CEO office) regarding a draft report from ODNI on the 2018 reassessment of USAGM’s personnel security program. USAGM is requested to stop conducting national security background investigations and to have all individuals investigated since the 2012 expiration of investigative authority re-investigated by the National Background Investigations Bureau (NBIB), and to stop conducting national security adjudications until personnel are properly trained. Jansen responds that USAGM has already started having NBIB conduct its background investigations, and that he has submitted adjudication training certificates to ODNI demonstrating that security personnel are trained adjudicators. On 8/5/2019, Walsh responds requesting a meeting to discuss the response to OPM/ODNI and grantee background checks.	Awareness of and Responses to Security Program Lapses						
OT0059	H56114-0007-048979	8/9/2019	Walsh emails with Milko that he thinks that they should both attend a work trip to Europe in September “[d]espite what Oanh says”. Milko says it’s the first time she has seen Tran concerned about having them both out of the office during a possibly critical time. Walsh says that they will circle back and try to get Tran comfortable.	Performance Issues						
OT0060	H56114-0007-014316	8/12/2019	Tran forwards Lansing the draft letter responding to ODNI’s security program reassessment. Lansing approves the letter.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0061	H56114-0007-048901	8/12/2019	Fechter emails CEO office employee Milko (with a copy to Lennon) the draft letter responding to ODNI’s personnel security program reassessment. Milko forwards it to Walsh (with a copy to Tran). Walsh approves it and asks Tran to secure Lansing’s approval so the letter can be sent the following day.	Awareness of and Responses to Security Program Lapses						
OT0062	H56114-0035-042527	8/12/2019	Tran emails Kligerman requesting his approval of the draft letter responding to ODNI’s personnel security program reassessment. Kligerman replies “I think we have a lot of comments. My team was looking at it. I wasn’t aware that the response was due tomorrow.” Tran emails OGC Conaty and McLaren (with a copy to Kligerman) the next day, requesting approval of the draft response to ODNI’s personnel security program reassessment.	Awareness of and Responses to Security Program Lapses						
OT0063	H56114-0007-013644	8/13/2019	OGC McLaren emails Tran (with a copy to Kligerman), approving the draft response to the ODNI personnel security program reassessment as legally sufficient.	Awareness of and Responses to Security Program Lapses						
OT0064	H56114-0007-014080	8/13/2019	CEO office employee Milko emails ODNI a letter responding to the ODNI reassessment of the USAGM personnel security program, with a copy to Lennon, Jansen, and the CEO office.	Awareness of and Responses to Security Program Lapses						
OT0065	H56114-0007-014081	8/13/2019	Letter from Lansing to ODNI states that USAGM has transitioned its investigative functions to NBIB, and encloses a response to the ODNI recommendations along with adjudicator training certificates.	Awareness of and Responses to Security Program Lapses						
OT0066	H56114-0096-0143061	8/13/2019	OGC McLaren receives from Tran an updated corrective action plan responding to the ODNI’s personnel security program reassessment, and forwards it to Kligerman.	Awareness of and Responses to Security Program Lapses						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0067	H56114-0007-013124	8/26/2019	USAGM response to OIG governance inspection recommendations says that USAGM has taken steps to improve executive decision-making by developing a new internal staffing structure and new internal communication processes; has circulated a draft VOA editorial policy now in final review at the State Department; and has established a team within HR to enforce the completion of annual performance reviews.	Performance Issues						
OT0068	H56114-0007-011146	9/5/2019	Tran emails Cobb, copying Walsh and Lennon, about an updated position description for Carew. Tran asks if it can be made effective “either Sept 1 or Sept 8”. Cobb responds that she has problems with “backdating actions before HR receives the paperwork” but September 8 is not a problem.	Performance Issues						
OT0069	H56114-0007-048052	9/9/2019	Third-party investigation into nepotism at OCB sent to Lennon, Walsh and Tran. Conclusion (p.14) says Director Regalado violated nepotism policy.	Performance Issues						
OT0070	H56114-0007-010692	9/12/2019	Powers emails Tran and Walsh that Thatcher has not even arrived in Korea yet and already wants to extend his trip. Walsh responds: “Shocker!” but says if he wants to extend 1-2 days, that seems worth it but Walsh defers to Powers. Powers says he told Thatcher no extension.	Performance Issues						
OT0071	H56114-0075-0020576	9/23/2019	Mower emails Cobb, copy to Kligerman, Lennon and Turner, in response to Cobb’s response on the status of Mower’s application for Chief Strategy Officer and says she (Mower) is assuming the Selecting/Hiring Official will follow best practices of impartiality and will follow recommendations on structured interviews. She notes the status of the four SES positions she applied to in the past and was referred for. She notes that Tran’s position was filled with no interview and that for another, she (Mower) was never interviewed but the job is still not filled.	Performance Issues						
OT0072	H56114-0085-063175	10/4/2019	Powers sends a general email announcing Kazmi as Senior Advisor to OPR. Tran offers to assist with a position description and suggests that Kazmi might be helpful with interagency work and could be a successor to Gary.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
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OT0073	H56114-0001-078211	12/30/2019	Lansing sends Turner and Lennon an email that all SES performance evaluations for the FY19 rating cycle have been completed. Lansing also states that he wants to give Tran a 120-day performance evaluation, but by that time, Turner will be her rating officer. Lansing states that given her outstanding performance, Tran should receive a bonus and pay raise. Turner acknowledges the email. A few months later, Tran emails Turner with Kligerman copied, stating that it appears that Turner will not honor Lansing’s evaluation and would proceed with his own evaluation, which she believed was unfair. Tran pointed out that all SES members received pay increases and bonuses, including one for Turner. Tran felt she was being singled out for being female, as Walsh received a pay increase and bonus as a new SES member. She also felt it was retaliation to an incident in which Turner blamed Walsh and Tran for confusing OCA staff with that of OCB.	Performance Issues						
OT0074	H56114-0075-0022204	12/30/2019	Tran emails Turner, copy to Kligerman, saying that she feels like after her 12/11/19 meeting with Turner, he “did not honor” Lansing’s request earlier in the chain, on 10/11/19, that his (Lansing’s) performance evaluation of Tran be incorporated into her 120-day performance evaluation even though Turner would be the rating officer by the 120-day mark, with Lansing’s departure. Lansing had recommended her for a pay increase and bonus set by him, which she says will now be forfeited. She reiterates points she says she made to Turner during the meeting, and notes that she feels like she is “being singled out” for being female and that this is “retaliation” for a specific event she describes. She asks that her evaluation as initiated by Lansing be given to Weinstein for signature, noting this would not be the first time a Chairman has signed off on SES evaluations.	Performance Issues						
OT0075	H56114-0006-027871	5/8/2020	Tran emails Turner draft Special Achievement Awards (\$2500 each) for employees Vazquez, Carew, Ross, and Barkhamer.	Performance Issues						

APPENDIX A – TRAN TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ²²					
					T ²³	R ²⁴	D ²⁵	H ²⁶	J	IT ²⁸
OT0076	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						
OT0077	H56114-0075-0007566	6/2/2020	Tran emails Hanlon an outline for the onboarding process of incoming CEO Pack. Kligerman emails Turner that Tran is overreaching her authority by unilaterally taking charge of a process that belongs to Lennon and should be cleared with Turner. Turner agrees.	Performance Issues						
OT0078	H56114-0006-049645	6/5/2020	Turner asks Lennon to process two special act awards for Tran and Walsh at \$2k a piece.	Performance Issues						
OT0079	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
OT0080	H56114-0007-042295	6/9/2020	Lennon emails Walsh regarding hiring and states “Those entries that are highlighted in yellow . . . The last item which is not on the list is the last minute accretion promotion request we received from Oanh for Armanda to a GS-13. I don’t know how you feel about this one, but Grant approved it prior to Mr. Pack’s appointment and we could make it happen with the next pay period if you would like. “	Performance Issues						

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OT0081	H56114-0007-065089	6/16/2020	Tran messages Walsh, “If promoted and Armanda retirees or leaves her position, that position reverts back to the original highest grade, GS-12”.	Performance Issues						
OT0082	H56114-0007-065093	6/16/2020	Tran messages Walsh, “Not a career ladder. Similar to Angelina’s promotion.”	Performance Issues						
OT0083	H56114-0007-065131	6/16/2020	Walsh messages Tran, “Marie told me she has not done anything with Armanda’s promotion. Haven’t discussed with her why, but told her the three of us should discuss tomorrow what to do. I support it, so not sure why it stopped. Maybe Grant never signed it?”	Performance Issues						
OT0084	H56114-0007-065138	6/16/2020	Walsh messages Lennon, “oanh just asked me: do you know what happened to armanda’s promotion? did that go through? Oanh said she noticed it wasn’t on the Tier 1/2 spreadsheet, which makes me think it went through under Grant’s approval, but do you know?”	Performance Issues						

TO: USAGM File

DATE: December 9, 2020

RE: Investigative & Document Review – Shawn Powers Summary

Name: Shawn Powers – Chief Strategy Officer

Summary of Basis for Investigative Leave:

Powers was placed on investigative leave for a variety of issues. Some of these include, but are not limited to:

- His background investigation being performed when USAGM lacked proper authority (security clearance granted 5/7/19).
- Failure to remedy personnel and security concerns escalated to his attention and within the scope of his role.
- Various issues related to improper oversight of grantee organizations.

McGuireWoods' investigation has involved document reviews, witness interviews, legal analyses and other investigative activities regarding and relating to Powers' conduct. McGuireWoods has not reviewed the ODNI report, or been privy to all of the broader investigative activities within USAGM relating to Powers. The following summary addresses activities within the scope of our investigative work.

Document Review Analysis:

McGuireWoods performed a document review relating to Powers' investigative leave. The following is a brief summary of key documents identified as potentially relevant to USAGM's investigation of Powers. Note in reviewing it that the documents were identified through application of keyword searches in an existing USAGM document database, and should therefore not be considered definitive. Potentially relevant documents could have failed to be captured by the search terms applied, and may not be contained in the existing database.

A more detailed timeline of the documents identified as being potentially relevant to Powers is provided as Appendix A (the "Timeline"); copies of the underlying documents are provided as Appendix B.

Awareness of and Responses to Security Program Lapses

We are aware of concerns within USAGM relative to Powers and the personnel security issues currently under investigation more broadly within the agency. Our document review indicated Powers had awareness of issues with USAGM's handling of personnel security issues, but provided us limited insight into Powers' role with respect to the remediation of those issues. We recognize that this could be a reflection of limitations in our document review. Further, as noted above, USAGM has access to documents and information to which we are not privy, and which may speak more fully to Powers' role with respect to these issues.

Adjudicative Guidelines

The review included screening for documents potentially indicative of factors considered under the National Security Adjudicative Guidelines applicable to USAGM personnel with security clearances, including consideration of Powers':

- Stability
- Trustworthiness
- Reliability
- Discretion
- Character
- Honesty
- Judgment
- Unquestionable loyalty to the United States
- Foreign influence or preference
- Handling of protected information
- Use of information technology

Most notably with respect to Powers, when he returned a number of USAGM-issued electronic devices to the agency in connection with being placed on leave, it was determined that he had wiped or otherwise factory reset the devices, destroying and making unrecoverable any documents, data or communications that might have been contained on them. As detailed in a memo dated November 19, 2020 regarding destruction of Federal records, Powers' conduct in wiping these devices was in violation of multiple USAGM policies and potential violation of various status and regulations governing the maintenance of Federal records. As an employee in a senior management position with USAGM, locally-saved files and communications on these devices likely contained Federal records subject to retention requirements. This conduct by Powers is relevant to consideration of his trustworthiness, discretion, honesty, judgement and use of information technology. The Timeline provided at Appendix A includes indications of which documents are potentially relevant to one or more of the adjudicative guidelines.

Further, the performance issues outlined below are potentially relevant to consideration of Powers' discretion and judgment.

Performance Issues

Personnel Issues

On April 27, 2018, Powers contacted Chief Strategy Officer Haroon Ullah about a job at the Agency. Ullah was enthusiastic about the idea. In May 2018, the Agency posted a non-supervisory “Senior Advisor” job under the Chief Strategy Officer, which was only open for six days. Joan Mower complained that Powers was “pre-selected” for the job and was hired as a GS-15, Step 10.¹

In July 2019, Mower alleged that Mehmood Kazmi engaged in an incident of unprovoked, inappropriate behavior toward her. On October 4, 2019, Powers announced the appointment of Kazmi as Senior Advisor to the Office of Policy & Research (“OPR”), reporting to Powers. Powers and Oahn Tran worked on creating a position description for him after the announcement.² On June 26, 2020, Powers and Kazmi were editing a proposed performance plan for Kazmi, and Kazmi responded with countercharges of racism as motivation for the allegations against him.³

On March 9, 2020, Deborah Todd sent a letter to Grant Turner complaining about her supervisors, Kate Neeper and Powers.⁴ She stated that their harassment and abuse had caused asthma and panic attacks. She also forwarded a letter from her doctor stating the same.⁵ She requested re-assignment or transfer. The documents reviewed have not provided additional information on these allegations.

Use of Agency Funds

In September 2018, Powers was attempting to plan an event at the Newseum using Agency funds.⁶ The scope of the event was to include industry-leading experts in journalism and technology engaging on the state and future of the industry, and what role publicly-funded organizations like USAGM should play in this space. The Agency had used all of their FY18 funds at the time. Chris Luer told Powers he could use OPR funding for the space, but not the food. Powers suggested that since they only had to put half the total estimate as a deposit to reserve the room, that perhaps they could pay the non-food and beverage half of the bill (room, tables, staffing) with 2018 OPR funds and sort out the food between then and the November 13. He said that “[w]hile it would be better if we could pay more than half using 2018 funds, if we can’t for reasons you article [sic] below, perhaps a non-food deposit provides a path forward.”

On June 12, 2020, there is a chat message from Marta McLellan Ross to Powers asking about what RFA reports to the Agency regarding their funds.⁷ She remarked: “it is not clear to me that USAGM has oversight of this programming or how the funding is used to enhance existing operations.”

¹ H56114-0009-010418; H56114-0009-091156

² H56114-0085-063175

³ H56114-0005-004227

⁴ H56114-0006-053082; H56114-0006-053083

⁵ H56114-0006-053084

⁶ H56114-0002-004607

⁷ H56114-0042-042301; H56114-0042-105973

APPENDIX A – POWERS TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁸					
					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0001	H56114-0002-022158	4/27/2018	Powers reaches out to Ullah looking for a job at USAGM. Ullah responds that he would love to bring him on board.	Performance Issues						
SP0002	H56114-0002-016717	6/19/2018	Cobb, Tran, Lennon and Walsh, among others, email to find a “creative” way to offer Powers pay at a higher step by considering his hire to be a reappointment from State under a Career Conditional Appointment in the competitive service.	Performance Issues						
SP0003	H56114-0002-016718	6/19/2018	Statement from Ullah to Cobb to support hiring Powers’ at higher pay.	Performance Issues						
SP0004	H56114-0002-048544	7/11/2018	Memo from H. Ullah regarding a request and justification to bring S. Powers on board at the maximum starting salary with the highest step within GS 15.	Performance Issues						
SP0005	H56114-0002-005655	9/17/2018	Powers emails Stefanou and Ullah asking them to help get his travel approved to attend a University of Pennsylvania colloquium. Tran on 9/18/19 notes to Ullah that Powers needs to explain how the trip is connected to the Agency mission and asks whether he can have a stronger speaking role at the conference. Ullah emails Powers that he will “push it through.” Powers responds that he thought this was pretty straightforward.	Performance Issues						

⁸ No documents were identified in our review that we deemed relevant to other adjudicative guideline criteria.

⁹ Trustworthiness

¹⁰ Reliability

¹¹ Discretion

¹² Honesty

¹³ Judgment

¹⁴ Use of Information Technology

APPENDIX A – POWERS TIMELINE

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SP0006	H56114-0002-004607	9/19/2018	Email among Powers, Tran, Ullah, Walsh, Stefanou, and Ostrander-Damon discussing finalizing the details for an event at the Newseum. The Agency already spent its allotment for FY18 and Powers is trying to figure out a way to pay for the food and beverages, since Luer says that the OPR funds cannot be used for food. Stefanou emails Walsh and Tran to loop them in to find other mechanisms to pay for it. Stefanou responds to Ullah and Powers that she spoke with Tran about it and they should chat.	Performance Issues						
SP0007	H56114-0007-058638	10/31/2018	Powers emails security office staff and Walsh, asking about the status of his security clearance, which he has been waiting for since the end of July. On 11/8/2018. Powers again emails, Walsh, asking him to follow up. Walsh responds that he will check, and “OPM dinged us on our entire background investigation processes so this may be caught up in that. Our Security office put a temporary hold on everything to fix the issues OPM is focused on...it’s a giant mess. Really unbelievable mismanagement.”	Awareness of and Responses to Security Program Lapses						
SP0008	H56114-0007-058999	10/31/2018	Powers emails Walsh about his security clearance, and why it did not just transfer over from his previous job (reciprocity issue). Walsh responds that it should just transfer over: “You should ask the Security office. If they push back or are slow let me know and I can intervene.” He also says getting a State badge is not a quick process because the Security Office is slow with these things.	Performance Issues						

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					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0009	H56114-0007-034738	12/10/2018	Mower emails Tran and Walsh regarding the Internet Freedom Festival (IFF) for 2019: “Given the sensitivities over group travel / junkets / boondoggles to European venues etc, hope someone is monitoring this one! Maybe not a good idea to encourage ALL USAGM to sign up for 4 days in Valencia at USG expense?” Walsh responds that he talked to Powers who will ensure there will be minimal attendance, and thanks her for flagging. She responds: “Great. This has long been a popular boondoggle funded to the tune of \$220,000 by USAGM/RFA in 2016 for example.”	Performance Issues						
SP0010	H56114-0007-057498	12/10/2018	Walsh forwards to Powers Mower’s email questioning sending numerous people to IFF in Valencia, summarized separately on the timeline, saying that as much as it pains him to say Mower is right, she does seem right that they don’t want that many USAGM folks attending, and “[w]e had this same issue with a DW conference earlier this year” and he ended up coordinating as to reduce footprint and maybe that should be done here. Powers responds that he’s on it and will ensure footprint is minimal and it is being monitored closely.	Performance Issues						
SP0011	H56114-0007-034030	12/13/2018	Tran emails Powers and Walsh, asking them if, in light of Mower’s concerns about the Internet Freedom Festival, Hurley’s proposed travel to attend it should be approved. Walsh and Powers agree that Hurley should attend, but that overall USAGM and RFA participation should be kept to a minimum.	Performance Issues						

APPENDIX A – POWERS TIMELINE

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SP0012	H56114-0007-057095	12/14/2018	Lansing, in response to Thatcher’s report on his trip to Strasbourg that the US European Command would not provide funding for an RFE/RL effort to monitor Ukrainian elections in 2019, from the day before, says: “...and we had to go all the way to Strasbourg to hear ‘no’? Ridiculous.” Lansing’s email is to Tran and Walsh. Walsh responds, copying Powers too: “As Shawn point out, we’ve been ‘Thatchered.’ I think Shawn is also right that on a positive note, this makes it easier for us to say no to his trip requests like this.”	Performance Issues						
SP0013	H56114-0007-056567	1/8/2019	Walsh emails Kligerman, Powers, and Turner that they should find out more from Thatcher about the conference he wants to attend as it seems random and not very useful even if CENTCOM is paying for it. He notes: “We’ve had lots of issues with Gary traveling too much, which Shawn is very familiar with!” The chain continues with having Thatcher possibly attend with supervision.	Performance Issues						
SP0014	H56114-0076-056289	2/9/2019	Thatcher asks if the Agency travel office can book a hotel for Liu to travel to a conference with him in Tampa, to get a lower USG rate. On 2/11/19, travel specialist Illum states that Liu could be set up as an invitational traveler and the Agency could book but not pay for the hotel. She notes “I doubt this avenue will be approved just to secure the lower hotel rate.” In a later email, she says someone should check with Tran/Lansing in advance to see if they would consider approving such a form, as “Buck stops there.” Powers responds that he’s doubtful the Front Office would clear this. They could issue an invitation for the meeting and that might work at check in. Wilhelm at RFA says that BBG CFO Stormes gave RFA a letter in 2009 stating RFA is federally funded and should be given the USG rate for hotels though not every hotel will honor it, and Liu will bring that. Powers says okay.	Performance Issues						

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SP0015	H56114-0006-006347	3/18/2019	In a discussion about OPR’s budget with Powers, Turner in emailing with the budget team about OPR’s prior year budgets, states: “I know Haroon went on a spending spree for a while and added a lot of people and contractors. We should factor those people into the baseline as well.”	Performance Issues						
SP0016	H56114-0007-021340	5/6/2019	Nweke emails Powers, copying Walsh and others regarding the next steps in the ERM process and asks for his response plan by 5/15/2019. On 5/14/19, Nweke sends a follow up email to Powers reminding him to send his response plan. Neeper responds, copying in Beatty, as Powers is out of travel.	Performance Issues						
SP0017	H56114-0076-062630	6/25/2019	Walsh emails Powers and Tran, asking for the status on approving Thatcher’s Korea trip, saying that Liu reached out making an argument that it should be approved and she is making a good case. Tran responds that Liu and her team are on the ground so what else is needed. Powers responds that he is having a hard time approving the trip and gives reasons, including that Thatcher was lead on USAGM’s North Korea report which was “an utter disaster”. He said Thatcher never responded to his email about serious problems with that. Approving the trip “would appear to reward [sic] his lack of professionalism and work ethic.” He thinks someone else from USAGM could go more cheaply too.	Performance Issues						
SP0018	H56114-0007-014175	7/8/2019	Andross emails Powers, Tran and others, with copies to Walsh, Lennon, and Cheng, tasks assigned in response to an OIG inspection of USAGM governance. Tran and Milko are responsible for a process for more efficient executive decision-making; Powers is responsible for a policy to meet statutory requirements related to VOA editorials. In addition, HR is responsible for enforcing the completion of annual performance reviews.	Performance Issues						

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					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0019	H56114-0009-010418	7/19/2019	HR director Cobb forwards Lennon an LER employee’s weekly report including complaints raised by Mower that (1) Kazmi behaved inappropriately toward Mower, (2) Kazmi was hired because of his relationship with Ullah, (3) an SES position description has been tailored to Powers, (4) Powers was hired by Ullah at too high a GS level and suspiciously fast, in order to ‘burrow’ a political appointee into a civil service job.	Performance Issues						
SP0020	H56114-0009-091156	8/16/2019	HR department weekly report to Lennon includes the Mower complaints regarding Powers and Kazmi previously forwarded to Lennon on 7/19/2019.	Performance Issues						
SP0021	H56114-0007-013124	8/26/2019	USAGM response to OIG governance inspection recommendations says that USAGM has taken steps to improve executive decision-making by developing a new internal staffing structure and new internal communication processes; has circulated a draft VOA editorial policy now in final review at the State Department; and has established a team within HR to enforce the completion of annual performance reviews.	Performance Issues						
SP0022	H56114-0009-091148	9/6/2019	HR department weekly report to Lennon includes the Mower complaints regarding Powers and Kazmi previously forwarded to Lennon on 7/19/2019.	Performance Issues						
SP0023	H56114-0007-010692	9/12/2019	Powers emails Tran and Walsh that Thatcher has not even arrived in Korea yet and already wants to extend his trip. Walsh responds: “Shocker!” but says if he wants to extend 1-2 days, that seems worth it but Walsh defers to Powers. Powers says he told Thatcher no extension.	Performance Issues						
SP0024	H56114-0005-042685	9/16/2019	Kazmi messages Powers alleging that an unnamed person (believed to be VOA Bennett) has said that Kazmi is “telling them to pull punches on news which is illegal and unethical.”	Performance Issues						

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NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁸					
					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0025	H56114-0085-063175	10/4/2019	Powers sends a general email announcing Kazmi as Senior Advisor to OPR. Tran offers to assist with a position description and suggests that Kazmi might be helpful with interagency work and could be a successor to Gary.	Performance Issues						
SP0026	H56114-0001-032440	12/31/2019	OTF legal counsel Turner emails Kligerman and others with a revision of the OTF grant agreement and funding annex. On 1/2/2020, Barkhamer emails Kligerman (copying others including Turner, Walsh, and Powers) regarding his concerns with the proposed Return of Funds language, including that OTF has been pushing to change the language that is used with other grantees, and wants something looser than what 2 CFR 200 allows. He states that he is open to making some clarification to the Return of Funds language, but that if OTF wants to appeal to the CEO for looser language, it can. Walsh responds that Barkhamer’s proposal makes sense.	Performance Issues						
SP0027	H56114-0096-0054447	1/8/2020	Barkhamer emails Kligerman “I had no intention of crossing lines of communication or muddying the waters. In my Friday e-mail, I said I would reach out to the OTF group on Monday. I was out sick Monday, and catching up on Tuesday, so this slipped until this morning.” Kligerman replies “Sorry. I was being cranky this am. I am just sensitive about the sensitive relationship with grantee GCs.”	Performance Issues						

APPENDIX A – POWERS TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁸					
					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0028	H56114-0075-0027352	3/4/2020	Amanda Bennett from VOA takes issue with paper sent by Powers in that it “skips right past the firewall issues raised the establishment of a new or augmented journalistic content review operation outside the walls of the entities, and goes right to process and implementation questions.” powers disagrees that it skips past the firewall issue. Bennett states she is surprised that Powers was trying to get it “into the board book and circulated to the board BEFORE seeking feedback from the entity heads -- and that it was Grant who had to share it with” them and not Powers. Capus emails Kligerman, Walsh, and Tran and states that Bennett’s stance is outrageous and it needs a strong rebuke from Turner, or Powers will be thrown under the bus for doing what he was asked to do. Kligerman forwards to Turner and states that he disagrees with Powers’ characterization.	Performance Issues						
SP0029	H56114-0006-053082	3/9/2020	USAGM employee Todd emails Turner attaching two memos regarding allegations of “harassment and abuse” by Powers and requests assignment outside of supervision of Powers. Turner forwards it to Kligerman.	Performance Issues						
SP0030	H56114-0006-053083	3/9/2020	Memo from Todd to Turner states that since being under the supervision of Powers and Neeper, she has had panic/asthma attacks that she had not experienced before.	Performance Issues						
SP0031	H56114-0006-053084	3/9/2020	Memo from psychologist treating USAGM employee Todd says that she is experiencing panic attacks as a result of unsubstantiated criticism by her supervisors.	Performance Issues						
SP0032	H56114-0007-062119	5/8/2020	Consultant certificate for Ilan Berman signed by Kligerman.	Performance Issues						

APPENDIX A – POWERS TIMELINE

NO.	DOCID	DATE	DESCRIPTION	ISSUES	Adjudicative Guidelines ⁸					
					T ⁹	R ¹⁰	D ¹¹	H ¹²	J ¹³	IT ¹⁴
SP0033	H56114-0007-062118	6/5/2020	Kligerman emails Lennon with Turner, Cheng, and Walsh copied and subject line “consultant”, stating that “We filled out the paperwork, but there was a lag. I now have his resume. Please let us know if we need to redo since it is dated from May 8. Since it’s as needed, zero dollar, Mr pack never has to use the services; so it would be no harm, no foul. I don’t think there is a rush here; we just want to put this back into the queue since it fell off. Hold until I can get him to sign the gratuitous services agreement.” Walsh forwards it to Capus, Powers, and Tran asking if they had heard about it before and that he has no idea where it came from.	Performance Issues						
SP0034	H56114-0042-105973	6/12/2020	Ross messages Powers, “I mean, when RFA takes this money, do they ever report into USAGM what they do with it? I know they report to DOD, but it’s not clear to me that USAGM has oversight of this programming or how the funding is used to enhance existing operations”	Performance Issues						
SP0035	H56114-0076-064262	7/14/2020	Powers responds to an inquiry from Australian Broadcasting Company employee Hua regarding the safety of journalists waiting for visa renewals that there is a “no external communications” order, so he was speaking to him from his non-USAGM account, but has no update on the visa requests.	Performance Issues						

Official Response

National Security Clearance

Andrew M. Jansen

TABLE OF CONTENTS

Section I - Opening.....	Page 04
Section II - Security Issues	Page 06
Subsection 1 - Personnel/Staffing.....	Page 06
Subsection 1a-Personnel/Personal Responsibilities.....	Page 07
Subsection 2 - Budget	Page 12
Subsection 3 - Management.....	Page 13
Section III - Delegated Authority	Page 16
Section IV – 5 CFR 1400	Page 20
Section V – Answers to Associated Allegations.....	Page 23
Subsection 1 -	
+	
Allegation 1.....	Page 23
Subsection 2 - Allegation 2.....	Page 25
Subsection 2a - SNAP Inspection Overview	Page 25
Subsection 2b - SNAP Responsibilities.....	Page 26
Subsection 2c - SNAP Inspections	Page 28
Subsection 2d - 2014 SNAP Inspection.....	Page 28
Subsection 2e - Assessment 2014 SNAP Final Report.....	Page 30
Subsection 2f - Assessment 2018 SNAP Report	Page 32
Subsection 2g - Assessment 2018 Final SNAP Report Recommendations.....	Page 36
Subsection 2h - 2020 SNAP Inspection.....	Page 41
Subsection 2i - Assessment of the 2020 SNAP Inspection Report.....	Page 43
Subsection 2j - SNAP Inspection Conclusions.....	Page 51
Subsection 2k -Allegation 2 Close.....	Page 52
Subsection 3 - Allegation 3.....	Page 54
Subsection 4 - Allegation 4.....	Page 57
Section VI – Overall Conclusions	Page 61
 Appendix 1 – Letters of Information/Recommendation	
(1) – Mr. Michael Lawrence	
(2) – Mr. Frederick Lang	
(3) – Mr. Bernard Kotarski	
(4) – Ms. Karan Wright	

Appendix 2 – Attachments

- (1) – Letter to ODNI, 2011
- (2) – Security Profile Memorandum, Spring 2011
- (3) – Email from M. Lawrence to M. Lennon, 12/2011
- (4) – Email from J. Nida to P. Lagerberg, 09/2010
- (5) – Email from M. Lawrence to M. Lennon, 09/2011
- (6) – Email from P. Lagerberg to M. Lawrence, 06/2011
- (7) – Email from P. Lagerberg to F. Lang, 9/2015
- (8) – BBG Unfunded Requirements Request, 2017
- (9) – Email Related to SEC Staffing, 2017
- (10) – Briefing Outline M. Walsh, 2018
- (11) – Briefing Outline BBG Board/Grantees
- (12) – Budget Summary for 2022, 2020
- (13) – Email from M. Lennon to A. Jansen
- (14) – Delegated Authority Warning, Page 26 of the 2014 SNAP Draft Report, 2015
- (15) – Email from M. Lennon acknowledging 2014 SNAP Draft Report, 11/2015
- (16) – Letters to OPM and ODNI Requesting Delegated Authority (DA), 05/2018
- (17) – Multiple Emails Concerning DA Letters, Various Dates 6/2018 - 09/2018
- (18) – Copy 5 CFR 1400
- (19) – Memorandum from A. Jansen to M. Lennon, Reassessment of Positions, 12/2016
- (20) – Email from N. Fechter to SuitEA concerning 5 CFR 1400 Extension 04/2017
- (21) – Email from M. Lennon to OPM/ODNI Concerning 5 CFR 1400 Extension, 2018
- (22) – Letter from J. Lansing to ODNI Requesting an Exception to 5 CFR 1400, 05/2018
- (23) – Security Executive Agent Directive 1, 03/2012
- (24) – Copy Cover Letter to 2014 SNAP Draft Report to M. Lennon from OPM 09/2015
- (25) – Email from P. Lagerberg to OHR Regarding 2014 SNAP Inspection, 08/2015
- (26) – Email from A. Jansen to Chris Luer Concerning OHR Issues, 03/2019
- (27) – Performance Appraisal Report for A. Jansen, 06/2019
- (28) – Email from A. Jansen to L. Loss, 12/2018

SECTION I - Opening:

On August 12, 2020, I received notice that my security clearance had been suspended and hence my ability to occupy the position of Director, Office of Security, was withdrawn. Although I do not understand the reasoning for this action, I will and have complied with the associated restrictions of the order and intend to fully cooperate with any investigative or other administrative requirements. My intent is to have my security clearance reinstated and continue my career at the U.S. Agency for Global Media (USAGM).

Concerning the suspension of my security clearance, to my knowledge no investigation into this matter has ever been conducted nor was I interviewed and provided an opportunity to present information that might mitigate the issues prior to the suspension and disqualification. Likewise, the allegations supporting the suspension, which will be further addressed in this response, are ambiguous and produce more questions than statements of wrongdoing. For example, what information was provided in the Security National Assessment Program (SNAP) inspection reports, the documents utilized by the Agency to support this action, that suggested my security clearance was ever invalidated, revoked, withdrawn, or not recognized by the Office of the Director of National Intelligence (ODNI), which has oversight privilege in these matters (Executive Order (EO) 13467, as amended)? Exactly how were the U.S. national security interests severely jeopardized at USAGM and if this was the case, why was this issue not addressed previously or the factors related to such accusations specifically identified?

Moreover, specifically, which adjudicative guideline(s) did I violate to cause the suspension of my security clearance and precisely what information contained in the OPM SNAP report(s) supports any accusation of wrongdoing against me, to include the suspension of my security clearance? Likewise, specifically who did I knowingly and willfully grant eligibility for, or access to classified information? It is incumbent on the Agency to investigate and rightfully charge as indicated in Executive Order 12968.5.2(a)(1), which states as follows:

- (a) Applicants and employees who are determined to not meet the standards for access to classified information established in Section 3.1 of this order shall be:
 - (1) provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;

The agency failed to provide a credible investigation or detailed and comprehensive charge(s) in this case and instead relied upon Office of Personnel Management (OPM) SNAP reports related to a singular SEC function, personnel security investigations, to suspend my security clearance and remove me from my position as Director. This is neither fair nor reasonable. The following should be noted:

- 1) I participated in the SNAP inspection process beginning in 2006 (I began my employment with the Agency in 2005); however, I did not actively participate

in the corrective process related to these reports until the 2014 Draft SNAP Report was received in 2015. My responsibilities related to the 2014 Draft SNAP report, as a team lead, amounted to writing the response for approximately six recommendations dealing with investigative process and then working on corrective activities in July 2017 when the 2014 Final SNAP Report was issued. I did actively participate in the 2018/2020 SNAP inspection and took immediate steps to correct issues identified within those SNAP reports, which will be explained later in his response. This allegation remains unsupported.

- 2) I have never worked outside of my clearance and my clearance has never been invalidated, revoked, suspended, or even questioned until the Agency's action, dated August 12, 2020. I have possessed an active security clearance since the Central Intelligence Agency (CIA) granted my initial security clearance in 2001. This allegation remains unsupported.
- 3) I have never knowingly or willfully granted eligibility for or allowed access to classified information in violation of any law. The charge is factually incorrect and unsupported.
- 4) I have never been personally identified by the Office of Risk Management (ORM) as having substantial involvement in creating risk within the agency. The ORM report repeats SNAP inspection report material related to SEC and narrows that information into risk factors for the agency. This charge is baseless and unsupported.

SECTION II – Security Issues:

No one will argue that security is a required aspect of any federal agency or organization; however, discord may develop when trying to determine its importance when discussing staffing, budget, or management styles utilized for oversight. Major decisions for any agency, to include the Broadcasting Board of Governors (BBG) and/or the U.S. Agency for Global Media (USAGM), which can lead to a functional or dysfunctional unit. These important issues must be explored before anyone can expect to understand why SEC's Personnel Security Program (PSP) has remained in a state of flux since its inception in 1999. Ultimately, the SEC team was never allowed to thrive due to senior leadership's failure to staff, budget, or effectively manage the unit. SEC was well aware of its shortcomings, as was OPM and OMS; however, oversight chose to ignore the issues.

Subsection 1 - Personnel/Staffing:

SEC's most significant issue is related to insufficient staffing, which has continually created numerous problems related to investigative performance, timeliness, and overall security process. In 1999, the BBG was established after the U.S. Information Agency was disbanded. Personnel assigned to USIA were either reassigned to the Department of State or to the BBG. Initially, SEC was staffed with 13 fulltime personnel in the following configuration:

Director, GS-15 (1); Chief, Personnel Security Division GS-14/15 (1); Chief, Physical Security Division GS-14/15 (1); Adjudicators GS-12/13 (2); Investigators GS-9/11/12 (2); Administrative Assistant GS-7/8 (1); and Physical Security Specialists GS-9/11/12 (5).

Considering the population of the BBG, which continues to be around 1750, or about half the size of USIA, SEC received approximately 13% of USIA's Office of Security staffing. Another remarkable addition to SEC's responsibilities was the expectation that SEC would also handle the security requirements of personnel assigned to associated Grantee organizations (cumulative estimated population, 1300). Currently, SEC employs thirteen fulltime employees (FTE) and five contracted personnel; however, only eight of these individuals work within the Personnel Security Division (PSD) while another two FTEs split their time between PSP and either counterintelligence or physical security.

As is apparent, the imbalance between SEC and the population it services was/is problematic; however, in the past the security community was not as tightly connected nor were the control factors related to the Office of Personnel Management's (OPM) oversight policies as onerous as they are today. Adding to the problematic issue of staffing limitations was the fact that BBG identified each agency position as sensitive which meant that SEC only conducted investigations to that end.

The types of investigations most utilized between 1999 and 2016 included the National Agency Check with Local Agency Checks (NACLIC) and the Access National Agency Check and Inquires (ANACI). Both the NACLIC and the ANACI are both closely related to the Tier 3 investigation that

is currently utilized by SEC (2016-present). NACLIC investigations, which represented the most utilized investigation, was the minimum investigation for contract staff seeking to hold a sensitive position or FTEs requiring a periodic reinvestigation at the non-critical sensitive level. The NACLIC was less time consuming and less investigator centric. The ANACI, which was the minimum initial investigation for FTE personnel seeking to hold a sensitive position, required investigative action based on whether mailed inquiries were satisfactorily returned. It should be noted that both the NACLIC and the ANACI investigations required security interviews based on issues developed during the course of the of the investigation. Immigration identifiers were the most common issue that automatically flagged the investigation for interview. As a matter of course, interviewing subjects and writing associated reports amounted to about 80-90% of the investigators' time throughout the period of 1999 to 2018. Bottomline, even with less stringent case requirements between 1999 and 2014, SEC struggled with major backlogs, formulating complete cases, and other related issues.

Between 2014 and 2016, SEC transitioned to the Tier investigative model that replaced the earlier investigations (NACLIC, ANACI, MBI, SSBI, etc.) with investigative platforms ranging from Tier 1-5. A Tier 3 investigation replaced both the NACLIC and ANACI and represents the most utilized investigative platform. The Tier 3 investigation covers both contract and fulltime personnel and require basically the same process as the ANACI investigation. In other words, the Tier 3 investigation requires much more investigator interaction and follow-up, not to mention the additional investigative requirements related to the associated issue identifiers or flagging system. When these concerns were identified, SEC again requested additional resources; however, no additions were received.

Subsection 1a – Personnel/Personal Responsibilities

I joined SEC in May 2005 and was one of two investigators assigned. At the time each investigator was expected to handle 14 case interviews per month with the expectation that the cases be completed without fail. Investigators were responsible for follow-up leads discovered during the interview process related to NACLIC and ANACI investigations, all other open leads were generally the responsibility of the Security Assistant (SA). The SA was also responsible for closing unreturned security inquiries and ultimately closing the investigative process. Without question, this process greatly affected SEC's timeliness, case productivity, and led to massive investigative backlogs.

In approximately 2006, the Chief of Personnel Security Division retired, and the position remained open until approximately 2008 due to delays in the hiring process levied by senior management and SEC's inability to find a qualified candidate. In 2008, the senior SEC investigator resigned, and her position remained open due to delayed approvals for rehire. These situations slowed the investigative/adjudicative process and placed SEC in the position of having only one FTE investigator to cover investigations of personnel in Washington, DC; New York, NY (VOA); Miami, FL (OCB), Delano, CA (TSI); Greenville, NC (TSI), and the Northern Mariana Islands (TSI). This situation continued for approximately 14 months which led to

unreasonable productivity expectations, additional backlogged cases, and a general feeling of chaos within the office.

Based on staffing issues, most personnel assigned to the PSP were/are expected to complete more than one function, which slowed both the investigative and adjudicative processes.

Please see the following examples as noted below:

- 1) An adjudicator was assigned to spend 50% of her time handling the day-to-day financial responsibilities related to SEC operations. Currently a physical security specialist and a security assistant handle these duties in addition to their other assigned duties.
- 2) The adjudicative team lead was expected to review case closures, handle personnel issues, monitor contractor support, and liaise with OPM/DCSA while conducting her assigned duties of adjudicating cases, assigning cases, tracking cases, and initiating due process cases.
- 3) An investigator was assigned to review case materials, scope case leads, monitor case process, assist with credentialing, and assist with backlog closures while conducting the minimum interviews required on a monthly basis.
- 4) Lacking other resources, SEC has been forced to assign a physical security specialist as the eQIP approver and fingerprint adjudicator while continuing her responsibilities in the physical security division.

The aforementioned examples represent only a few work-arounds that SEC was/is forced to utilize in an attempt to process cases; however, the lack of proper staffing created issues that continued to hamper the investigative process and ultimately case reviews/adjudications. This issue caught the attention of the Director of National Intelligence (DNI), who on February 23, 2011 informed the Director of BBG that SEC was not meeting its investigative and adjudicative timeliness goals, as required under The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). In the agency's reply, Peter Lagerberg, Chief, Personnel Security Division, explained, "In response to your February 23, 2011 memorandum, same subject, this office was not able to meet quarterly goals during fiscal year 2010 **due primarily to insufficient resources.**" Mr. Lagerberg then listed five actions that SEC would take to correct this situation.

The actions identified were listed as follows:

- 1) Supplement two additional Security Contract Assistants to process and initiate new investigations in a timely manner on the front end of the investigative process;
- 2) Increase the contract investigative budget to utilize contractor investigative resources to produce timely investigative results;
- 3) Obligate the Broadcasting Board of Governor grantees, particularly Middle East Broadcasting Network, to supply an in-house investigator and associated administrative support, in order to produce timely investigations;
- 4) Establishing dual credentialed investigators and adjudicators within the Office of Security in order to utilize personnel security resources throughout the investigative process. This will mean upgrading current grade level structure for these positions. And,

- 5) The Office of Security will make a risk management decision based on the investigative information on-hand at the end of the 40 day period and if necessary, initiate special investigations on those cases where unfavorable information is discovered after the case is closed.

Mr. Lagerberg's response satisfied the DNI, but his claimed fixes were not completely implemented. SEC was authorized and hired a contracted SA (not two, as indicated), the increased budget never materialized, and the Middle East Broadcasting Network never supplied an in-house investigator nor provided administrative assistance. Additionally, both investigators were certified as adjudicators; however, they were never utilized in that role as the investigative process required their talents. Mr. Lagerberg's DNI response is appended at Attachment 1.

It became clear that the operational conditions within SEC were not sustainable without major change that required additional personnel and budgetary supplements to allow for a successful personnel security process. Although, assistance was requested, help was never approved even though multiple requests were made by associated directors, chiefs, and other assigned personnel. More specifically, I have located the following documents within my files that provide a good representation of requests made for additional personnel and funding to assist SEC with conducting the investigative process in the 2011 to 2015 period. The following documents/requests were completed and forwarded to senior management:

- 1) In the Spring 2011, a memorandum was produced providing an overview of SEC's Physical Security and Personnel Security Divisions for senior management, to include the new agency Director, Dick Lobo. Among other material, the document identifies challenges associated with the Personnel Security Division, which include meeting IRTPA timelines, intelligence sourcing, excessive workload, staffing capacity, and technology concerns (e-QIP). This document is appended as Attachment 2.
- 2) In 2011-2012, Director of Security, Michael Lawrence, penned a memorandum to Marie Lennon (appended as Attachment 3) in response to additional workload being assigned to SEC. The document identifies several promises for additional personnel and funding; however, none was ever delivered. This memorandum is bolstered by an email, dated September 17, 2010, from Peter Lagerberg to James Nide, Director of Security, MBN, which questions whether MBN would provide SEC with an additional Security Assistant (appended as Attachment 4). Mr. Lawrence ends his memo with, "The office has repeatedly requested additional resources to manage our security programs, with the last time occurring in September 2011. But to date, no additional resources have been provided."
- 3) In an email, dated September 26, 2011, Mr. Lawrence advised Marie Lennon about his concerns with probable workload increases for SEC, related to grantee investigative needs. The email is appended as Attachment 5.

- 4) In an email, dated June 13, 2011, Mr. Lagerberg, Chief, Personnel Security Division, conveys the need for additional personnel and funding to Mr. Lawrence. The email is appended as Attachment 6.
- 5) An email dated September 8, 2015, from Mr. Lagerberg to Mr. Lang, Director, explaining the need to hire three new contractors to oversee the eQIP process. More remarkable is the fact that he identified a need for three contractors but only asked for one contractor to run the program. The narrowing of his resource request speaks volumes concerning what senior management would even consider. It should be noted, even though Mr. Lagerberg mentions the threat to revoke the Agency's delegated authority, a contractor was not provided until late 2017 while the eQIP process was initiated by SEC in approximately 2015. Although OPM initiated the eQIP process in the 2003-2004 timeframe, the Broadcasting Board of Governors (BBG) did not fund eQIP for Agency use until sometime in 2014 (see 2014 SNAP Report). A copy of the email is appended to this response as Attachment 7.

SEC continued to request additional resources throughout the period, but they were denied or ignored by either Marie Lennon or others within senior management. SEC continued the process of balancing its limited resources against its security role and mission; however, based on previous SNAP inspections, SEC was not overly successful. Nonetheless, senior management turned a blind eye and continued to push a production levels that allotted resources could not sustain.

In September 2015, Mr. John Lansing was appointed as Director/CEO of the BBG. Shortly after assuming his position, Mr. Lansing began visiting each Agency office to explain his philosophy and plans for the agency. During this period, Mr. Lansing, accompanied by Ms. Marie Lennon, visited SEC and after presenting his thoughts he opened the floor for questions. It was then that I introduced myself (at the time I was a GS-13 team lead), and spontaneously provided Mr. Lansing with a breakdown of SEC's personnel issues, case backlogs, and the dire need for budgetary assistance. I informed him that the Office of Security attempts to accomplish its mission; however, the office often falls short. I requested his assistance to bring up the staffing levels within SEC and provide proper financial assistance. In response, Mr. Lansing simply replied, "Send me a personnel study, thanks," and headed for the door. Neither Mr. Lansing nor Ms. Lennon ever responded or questioned the needs of the office based on this briefing.

Sometime in 2016, I submitted two BBG Unfunded Requirements (UFR) requests to OMS for an award of funding for supplemental contract personnel. The funding was required to fill positions within SEC's investigative and adjudicative sections and to provide for a new case tracking system to replace the archaic system currently in use. These requests were made after OMS denied SEC's earlier requests for FTE positions and technology funding based on budget concerns. Neither request was fulfilled. Copies of the UFRs are appended as Attachment 8.

Requests for additional resources were continually ignored or denied, as SEC's ability to handle the workload continued to falter. However, in about 2017, SEC was authorized to contract with

KeyPoint Government Solutions (now Perspecta), which allotted one or two investigators (depended on their staffing capabilities) to the Washington, DC office and two investigators to handle investigations at the Office of Cuba Broadcasting (OCB) in Miami. This arrangement was the beginning of a partial fix; however, SEC never received additional funding to handle associated costs dealing with Perspecta or other contract staff. This situation limited SEC's ability to fully utilize their services. In the end, the office continued to experience issues with workflow and process, which were encapsulated in the 2014 and 2018 SNAP inspection reports.

Throughout 2017 and 2018, requests were continually made to correct personnel shortages and to obtain funding for upgraded case tracking software. These requests finally resulted in the funding of a new case tracking system in September 2018, but otherwise led to several staffing studies, which pared down SEC's original personnel requests (see assorted studies/requests/ notes concerning personnel additions that are cumulatively appended as Attachment 9).

Although promises were made to sufficiently staff SEC with investigators, case review personnel, adjudicators, an eQIP manager, and security assistants, OMS and senior staff slow-rolled the approval process related to most of the requested FTE positions and only approved the replacement of the Physical Security Division Chief, Security Assistant, and an Adjudicator position. With the exception of the adjudicator position, these position approvals only filled existing positions within SEC without providing the additional staffing needed. In the end, a selection was made concerning the administrative assistant; however, a hiring freeze has put that process on hold. Neither a chief nor an adjudicator were selected based on the first cert. All other positions were placed on hold and never approved by OMS. It should be noted that the aforementioned positions were slowed-rolled or denied even after the CEO provided SEC permission to hire all required resources after the 2018 Draft SNAP report was released.

After numerous unsuccessful attempts to obtain additional staffing, budget, and other obviously required resources, I felt a need to alert senior management of the impending issues concerning SEC operations. Based on OMS' apathetic attitude toward SEC, I scheduled an appointment with Matt Walsh, Chief Operations Officer, to discuss serious issues related to SEC operational requirements.

On or about November 8, 2018, I met with Mr. Walsh in his office and explained issues concerning SEC that required immediate attention. I presented concerns regarding staffing, budget, case backlogs, physical security concerns, Insider Threat problems, issues associated with the Agency's failure to adopt 5 CFR 1400 (position sensitivity assessments), issues with delegated authority, communication issues between OMS and the CEO, and other related issues. At the conclusion of the briefing I asked that SEC be move from under OMS and organizationally transferred to a position serving under the CEO or like officer. Mr. Walsh thanked me for the detailed briefing and indicated he would consider my request. Ultimately, I never heard another word about the briefing or any of the issues that were brought to light. A copy of the outline used for the briefing is appended as attachment 10.

Subsequent to receiving the results of the 2018 SNAP Inspection process I briefed the CEO related to the inspection results with special attention to the loss of delegated investigative authority. During the CEO's briefing, which was attended by Marie Lennon, Mr. Lansing had numerous questions related to the loss of delegated authority and the overall results of the inspection. He was advised that the major issues influencing the results dealt with the Agency's failure to renew its delegated authority and to comply with 5 CFR 1400. At the conclusion of the meeting, Mr. Lansing indicated that he understood the issues faced by SEC and obligated whatever resources were needed to fix the problems.

Subsequently, I also briefed the Governors, to include Grantee presidents and senior staff, related to the inspection results. One question was asked related to the suspension of delegated authority; however, no one else took immediate interest in the report or questioned BBG security processes. A copy of the briefing outline is appended to this response as Attachment 11.

Following the delivery of the 2018 Draft SNAP report, SEC was authorized two short-term detail positions, which were split between the adjudication section and the eQIP Office. Both detailed individuals required clearances and training, as neither individual had any experience related to security. Ultimately, the individual assigned to the Adjudication Section was retained and assumed a permanent role as a suitability adjudicator while the individual assigned in the eQIP Office was released due to her inability to acclimate to the security environment. Her position was subsequently filled by our contracted receptionist in April 2019. The transfer of our receptionist to eQIP raised the level of personnel in the eQIP Office to two. No additional personnel were assigned based on apparent budget concerns.

Subsection 2 - Budget:

SEC has dealt with personnel shortages and budget issues since its inception. Since coming under OMS, it has been my experience that SEC's budgetary needs were assessed by OMS personnel to include Marie Lennon and Chris Luer, Deputy Director OMS. Although Mr. Luer would try to hold finance meetings on a monthly basis, he only provided base information about current budget status and rarely took into consideration SEC's operational needs. This was made very evident by the fact that until 2020 I provided little to no information concerning budget outlays for the coming years. Typically, I was informed of what the office would receive in the GOE and BCI accounts annually and told to stay within those parameters.

In 2020, SEC's annual budget totaled approximately \$1.1 million. This was problematic, as most of the total allotment was immediately obligated to pre-existing contractual obligations dealing with contract staff, technical assistance (U.S. Max, OFS, SigNet, etc.) or costs associated with personnel security investigations completed by Defense Counterintelligence and Security Agency (DCSA). Travel costs were set-aside for inspection purposes; however, expenses related to security repairs, equipment purchases, or cost overruns related to DCSA led to multiple requests for additional funding through OMS. In this situation, funding disbursements

were then negotiated between SEC and OMS. OMS would then decide whether to provide or deny additional funding. This process often caused confusion and frustration while not allowing SEC to make the decisions necessary to protect personnel and harden facilities.

In 2020, the Office of the CFO requested SEC's insight to budget disbursements for years 2021/2022. I took the opportunity to provide the CFO a true estimate of annual costs associated with running the four units within the Office of Security. The Budget summary provided to the CFO stood in stark contrast to the unrealistic budgets of the past. Considered, were the planned security refurbishment of the overseas transmitter sites and the additional expenses related to DCSA. The budget request, which cumulatively tripled earlier SEC budgets, was forwarded to OMS for review but drew only one comment, "It is too much." It is unknown whether the budget request was transitioned from OMS to the OCFO, but no other reactions have been noted, which indicates that management has again ignored the obvious resource requirements necessary for SEC to complete its mission. A copy of the budget request is appended for review as Attachment 12.

Subsection 3 - Management:

Overall, management of SEC amounted to the worst of both worlds. Management above the OMS Director's position took no interest in SEC, not even when directly advised of SEC concerns or when evaluation reports by oversight agencies were received. Until the 2018 SNAP Inspection Report (draft), there was not a comment, question, or proposed change from managers, outside of OMS, regarding what was happening in SEC. Conversely, OMS managed the office with what could only be described as a micromanagement style. This type of autocratic management mixed with indecisiveness stifled change and destroyed any hope that SEC could ever conform with changing protocols driving the security community.

Director of OMS, Marie Lennon, wanted to provide input on every issue and always made sure that her voice was the last voice in the debate. No changes were permitted without first presenting the idea to Ms. Lennon; however, Ms. Lennon never trusted herself to make a decision and would instead defer most issues through a communal decisional process. This process often led to the referral of the issue to Ms. Lennon's OMS subordinates, OMS legal support, or the Office of the General Counsel (OGC). Bottomline, Ms. Lennon never trusted SEC leadership to make the right call nor did she trust herself to be decisive.

In April 2018, I was selected as the Director, Office of Security. The day I was told of my selection, Ms. Lennon informed me that she did not want me to speak with anyone other than her in senior leadership. I was instructed that if I were to bump into someone, who held a senior management position, and had a spontaneous conversation I was to immediately email her with information concerning the conversation. I was also told that all decisions concerning SEC would be directed through OMS and that she and SEC (managers) would continue to meet weekly, as was conducted previously, and that operational discussions would be conducted at that time.

Ms. Lennon was serious about maintaining her management style, as no decision was made without briefing her or allowing her input on the matter even when her input violated security principles. For instance, when SEC would brief Ms. Lennon regarding due process actions, she would often question the process decision if she knew the subject of the investigation or felt that the action might catch the attention of the CEO's office. She would inevitably ask whether there may be another way of handling the security process and on occasion went as far as communicating with adjudicative staff to question the overall process/decision. Please note, Ms. Lennon's actions never changed the course of a due process action; however, her concerns often became the concerns of SEC personnel involved in the action, which by itself is problematic. As a second example, Ms. Lennon, upon hearing that an issue had been identified concerning a Governor, sent Mr. Luer to SEC for the purpose of reviewing the Governor's security file. To accomplish this, Mr. Luer contacted subordinate SEC personnel directly to coordinate the review utilizing his position to influence the action. Fortunately, I was contacted and Mr. Luer was not permitted to accomplish his tasking, but the fact that he had tried is remarkable and only reinforces the impression that OMS remained excessively involved in SEC activities.

Ms. Lennon's need to remain overly involve in SEC activities led to personnel within her office assuming roles within SEC operations to include physical security surveys, personnel security process, and even the preliminary process of SEC's case tracking system's fabrication. The intrusions did not stop there, however, as Ms. Lennon and her staff assumed the role as a public affair like office for SEC. OMS would routinely handle complaints or process-questions they received concerning SEC instead of transferring the issue to SEC and allowing SEC management to respond directly to the issue. This situation came to a head early in my term as Director when I approached Ms. Lennon, Mr. Luer, and Mr. Fechter and asked that OMS stand-down and allow SEC to handle complains directly and otherwise provide correct process information to those seeking information. Following three related discussions, OMS agreed to refer all questions and complaints to SEC for action, hence removing OMS from the process.

Approximately one week after establishing the aforementioned agreement, I was copied on an email Mr. Fechter had written to several VOA managers providing his (incorrect) thoughts on how SEC would begin processing new hires. I responded to that email by providing the correct information concerning the question, but I opened the email with something to the effect of, "I'm not sure why Nicholas [Fechter] is responding to this question; however..." which drew Ms. Lennon's immediate ire. In the email that immediately followed, Ms. Lennon castigated me for having a fundamental lack of understanding about the philosophy of OMS. She ended the email by stating, "I hope to never see this kind of email (made all the more egregious by being sent to many of our clients) from you again." This email was at best confusing, but it told me where I stood and to whom I was responsible. I printed Ms. Lennon's email on Agency letterhead, framed it, and hung it in my office next to earlier awards to serve as a reminded of who actually ran the Office of Security. A copy of Ms. Lennon's email is appended to the response as Attachment 13.

Likewise, Ms. Lennon regularly invited her staff (Chris Luer and Nicholas Fechter) to SEC/OMS weekly meetings so that they could provide their insight related to SEC proposals. It should be noted that neither Mr. Luer nor Mr. Fechter ever worked in the security realm; however, amazingly their cumulative thoughts often outweighed or eroded the Director of Security's judgement, thoughts, or process requests.

Throughout this response are numerous examples of mismanagement that led to a general unwillingness to change processes, policies, or to even follow federal regulations. This lag in change stemmed from Ms. Lennon's aversion to conflict or attention garnered due to complaints, issues, or other situations. She tended to suppress issues and keep them within the direct control of OMS. This was made abundantly clear as she assessed processes associated with issues related to SNAP inspection reports and requests related to SEC resources. As a result of BBG not closely monitoring OMS activities along with OMS policies that discouraged communication between SEC and senior leadership, Ms. Lennon felt secure in denying, ignoring, or suppressing most anything. Considering the fact that Ms. Lennon oversaw SEC operations for quite some time (exact period unknown), it appears that numerous issues were either forgotten or purposely swept under the rug.

It must be understood that Ms. Lennon actively managed SEC and in doing so refused to allow the office to run as an Office of Security should, autonomously. Her management style consistently degraded her units (SEC, OHR, Contracts, etc.) and led to a poorly functioning support apparatus for the Agency and a stifling, indecisive, and less productive work environment for staff associated with SEC. More specifically, her inaction concerning the Agency's delegated authority [Ms. Lennon was one of three recipients of the 2015 SNAP Draft Report that first identified the expiration of the Agency's delegated authority and failed to take action]; her failure to seek the CEO's approval for delegated authority update letters [Ms. Lennon referred the approval process to the OGC, hence delaying the process for months]; and her poor judgement in relation to 5 CFR 1400, basically impaired the Agency and failed SEC.

SECTION III – Delegated Authority:

An investigation into the lapse of BBG's delegated investigative authority begins in December 2012, when Peter Lagerberg apparently filed a request to update BBG's delegated investigative authority with OPM. However, according to the 2014 Draft Inspection Report, when questioned why BBG was operating outside of delegated authority, Mr. Lagerberg informed inspectors that he had attempted to complete the redelegation, but experienced issues when OPM failed to return the MOU after he had asked for revisions to be made. He added that it was his belief that the MOU was automatically renewed and remained in effect. Inspectors later countered Mr. Lagerberg's assertions by providing a timeline related to the transition of the MOU, which they claimed was never finalized.

Based on OPM's explanation, it appears that Mr. Lagerberg failed to ever correct the issue even though he was reminded of the problem during his interview with SNAP officials, during the SNAP Team's exit assessment, and again in the 2014 Draft SNAP Inspection Report, Page 26, which is appended as Attachment 14. Likewise, Ms. Lennon's response to the 2014 Draft SNAP Report along with the Agency's response is appended as Attachment 15. In fact, Mr. Lagerberg retired from federal service in January 2016 without correcting BBG's delegated authority or advising any SEC personnel about the issue.

Note: Mr. Lagerberg behavior reeks of a surreptitious attempt to adversely affect SEC upon his exit from federal service. Unfortunately, Mr. Lang (Director) entrusted Mr. Lagerberg with the Personnel Security Division and allowed him to work independently. Mr. Lagerberg was a highly intelligent individual who had never failed to update an MOU, to include 2012 OPM MOU (he attempted). Even though, Mr. Lagerberg was reminded on numerous occasions, he failed to act and correct the issue. Moreover, Mr. Lagerberg would have needed to reapply for delegated authority before he retired in 2016.

Furthermore, Mr. Lagerberg had problems with SEC, OHR, and OMS/IBB regarding behavioral issues he experienced earlier in his career at BBG. He felt he was overlooked for a promotion to GS-15 and for a position as a reemployed annuitant due to his earlier problems with a previous SEC Director, OHR Director, and the OMS Director (Lennon). This allegation cannot be proven at this point, but Mr. Lagerberg's behavior and actions are highly suspect.

The 2014 SNAP Draft Report (received in 2015) was the first official notification, excluding email notifications sent from OPM directly to Mr. Lagerberg, identifying an issue with the agency's delegated authority. Unfortunately, not one of the report recipients acted upon this notice nor did OPM ever send additional notices to BBG or act to either rescind BBG's delegated authority or disconnect BBG from data systems which allowed BBG to continue its investigative process. Instead OPM tacitly approved the process by continually accepting all BBG investigative notices,

investigation closures, and adjudication findings (79a). The overall situation went unnoticed by SEC until mid-2017.

In June/July 2017, while reviewing the MOU files I noticed that the OPM Delegation of Investigative Authority Memorandum of Understanding (MOU) showed an expiration date of December 31, 2012. Thinking this was a mistake, I contacted our OPM liaison, Lindsay Gengler, and requested a copy of the latest MOU with OPM. She later responded by verifying that the MOU was indeed expired. I again contacted Ms. Gengler and asked how this situation could be rectified. Ms. Gengler indicated that she was unaware of the process but that she would make inquiries and get back to me. Sometime later, Ms. Gengler indicated that she would forward my concern to the OPM Policy Office for review. I was told to standby for their response. It should be noted that Marie Lennon was notified of the situation upon verification.

In July 2017, SEC received the final 2014 SNAP Inspection Report detailing inspection issues and the fact the BBG's delegated authority had lapsed. Subsequently, Tammy Paul, OPM Policy Office instructed me to contact Lisa Loss in the Suitability Executive Agent Program Office. A call was placed immediately to Ms. Loss' office and a message left on her service. Having not received a call back, I again telephoned Ms. Loss; however, a Christine Bilunka answered the phone. Ms. Bilunka indicated that she had received my earlier call and that she would again forward my message to Ms. Loss. When asked to provide a direct number to Ms. Loss or a cellular number, Ms. Bilunka refused to provide the information and again indicated she would advise Ms. Loss of my call. Ms. Bilunka added that she was sure Ms. Loss would return my call when she was less busy. Ms. Loss never returned any of my many calls.

On May 17, 2018, I attended a Background Investigator's Sub-Group (BISG) meeting for the sole purpose of contacting Ms. Loss, as she was a scheduled speaker at the meeting. At the conclusion of the meeting, I introduced myself and asked for her assistance to correct BBG's expired delegated authority. Ms. Loss reluctantly acknowledged my earlier calls and then explained that BBG was clearly out of conformity with OPM policy and that there were major obstacles in front of BBG to obtain delegated authority. She suggested that BBG transition its investigations to another investigative service provider; BBG must request delegated investigative authority through both OPM and ODNI; BBG should amass an investigative body that could handle the case flow.

Ms. Marie Lennon was contacted upon my return to BBG and advised of my meeting with Ms. Loss. Ms. Lennon was provided with Ms. Loss' suggestions but questioned whether the agency needed to discontinue its investigative service. She asked whether Ms. Loss had the authority to make this request and whether Ms. Loss' recommendation to shutdown investigations amounted to an actionable order. Unable to answer the aforementioned questions, Ms. Lennon asked me to keep this information to myself and that she would seek legal guidance via the OGC.

It should be noted that the investigative process was not suspended based on Ms. Loss' suggestion nor were additional personnel approved to supplement the investigation section. Discussions between Ms. Lennon and Mr. Kligerman (OGC) determined that a shutdown was not required.

On May 29, 2018, I finalized two letters, one to OPM and the other to ODNI, explaining the circumstances related to the Agency's expired authority and requested delegated authority be restored. The letters were immediately sent to Ms. Lennon, as the Director/CEO was required to sign them. Ms. Lennon accepted the letters and indicated that she would return them as soon as possible. After a few days Ms. Lennon was again contacted and reminded of the importance of those letters. Copies of both letters are appended collectively as Attachment 16.

On June 7, 2018, Ms. Lennon notified me via email that the letters requesting renewal of the Agency's delegated authority were sent to David Kligerman (OGC) for legal review and signature. The email indicated that the letters were transferred on May 30, 2018. Throughout June, July, August, and September several emails were sent to Mr. Kligerman asking the status of the renewal letters and reminding him of their importance and the need for the letters to be finalized. It should be noted that the letters requesting delegated authority were not returned until October 2018, after the results of the 2018 SNAP Inspection were received. The 2018 SNAP Inspection report suspended our delegated authority based on USAGM's failure to renew its delegated investigative authority. A representation of the reminder emails sent to Mr. Kligerman are collectively appended as Attachment 17.

Based on the 2018 SNAP Draft Inspection Report, USAGM never submitted the requests for the re-delegation of investigative authority, as OPM stated within their report that they would not entertain such a request until corrective action was taken by USAGM. However, subsequent to the revocation, SEC immediately ceased all investigative activities, transitioned eQIP delivery from USAGM to the National Background Investigations Bureau (NBIB) and began the laborious process of discontinuing active cases and reinitiating them through eQIP for NBIB investigative action. This process was labored by the fact that USAGM was not prepared for such an action based on its failure to comply with 5 CFR 1400 (redesignation of all Agency positions). USAGM did not begin to comply with 5 CFR 1400 until after the October 2018 SNAP Draft Report was issued.

The process of transitioning 500-600 active cases from USAGM to NBIB could not be immediately accomplished, as no position designation records (PDR) had been established by the Agency at that point. This meant that SEC had to delay the re-initiation of cases until OHR/OMS began the process to obtain PDRs for each covered position within the Agency. The PDRs were required so that SEC would initiate an investigate at the proper level. Moreover, a PDR data-transfer-system, identifying the sensitivity and risk of each position was not developed, which placed additional delays into the transfer process.

To slow the process further, once PDR information began to flow, agency personnel subjected to reinvestigation were slow to provide necessary eQIP information. This inaction was complicated by the fact that union contractual agreements provided a 45-day grace period for members required to submit an eQIP application (SF 86, 85P, or 85). This grace period led to late submissions or no submissions at all. If personnel failed to submit their applications, their eQIP terminated automatically after a period of time. In this situation SEC was forced to re-initiate cases within the eQIP system and restart the process. This issue along with OPM's demand that USAGM reinitiate all investigations occurring between 2013-2018 caused major distress in a unit not staffed to conduct even routine workflow.

Based on the OPM requirement that USAGM reinvestigate all personnel vetted by BBG between 2013 and 2018, SEC was initially required to prioritize case work, as no assistance was ever offered to handle the additional administrative workflow. Therefore, SEC chose to discontinue all ongoing investigations and reinitiate them before reinitiating cases identified by OPM, as most discontinued investigations represented personnel working within the Agency who were not fully cleared. Even so, OPM reported that 317 cases (see recommendation 24, 2020 SNAP Report) from their list of 1527 individuals requiring reinvestigation were scheduled by SEC for reinvestigation during the aforementioned process.

Concerning OPM's list of 1527 individuals requiring investigation, SEC determined that approximately one-third of the individuals had left the agency and many more were related to the Agency as either grantee or stringer personnel who do not require reinvestigation. This situation left approximately 750 cases to reengage. Most, if not all, have been reinitiated for investigation with Defense Counterintelligence and Security Agency (DCSA); however exact numbers are unknown. This process should be complete by October 1, 2020.

SECTION IV – 5 CFR 1400 Requirements:

It must be understood that in 2014/2015, the security community began to shift to a reciprocity-based Tiered investigation process. This process, which was mentioned several times in the 2014 SNAP inspection report, required SEC to recognize parity between FTEs and contract staff (requiring the use of the same investigative process) while utilizing the Position Designation System (PDS) to determine sensitivity and risk for each position. This situation led to the creation of 5 CFR 1400, which required federal agencies to reassess all assigned positions for sensitivity and risk. The regulation provided a two-year period to complete this task which ran from June 2015 to June 2017. A copy of 5 CFR 1400 is appended as Attachment 18.

In May 2015, while attending a CIA conference I received an announcement that explained the requirements related to 5 CFR 1400. When I returned to the agency, I presented a copy of the requirements to Marie Lennon. While sitting at a table I explained the changes, which included the need for OHR to reevaluate all Agency positions for sensitivity, and then politely slid a copy of the notification to Ms. Lennon. She responded by sliding the notification back to me while saying, "That's ok, you can explain it." Ms. Lennon never accepted the notification and never acknowledged my explanation nor the program until about December 2016 (19 months later), even though the issue was continually brought to her attention throughout the period.

The process concerning 5 CFR 1400 was problematic for even the most organized agencies, as it provided a two-year period to restructure the security process, approve and assemble a new OHR unit responsible for PD review and Position Designation Records (PDR), and create a communications link between SEC and OHR that would allow the transmission of PDR findings with special attention to upgraded sensitivity of assigned positions. Upgraded positions required a new investigation to be initiated within 14 days of the finding. Overall, this was an immense undertaking that, if done correctly, would take every bit of the 24 months allotted. Nevertheless, SEC seemed to be the only office that understood the importance of getting this foundational transition correct and how it would relate, in a security sense, to positions throughout the U.S. International Broadcasting Community. Regrettably, nineteen months passed before OMS displayed any interest in the requirement.

In December 2016, Ms. Lennon asked that I develop a report to assist with briefing Mr. Lansing concerning 5 CFR 1400. The requested report was provided on December 19, 2016 (appended as Attachment 19); however, I do not believe that it was ever presented to Mr. Lansing, as I was never asked to brief him nor was this report discussed further. Nonetheless, from that point forward, 5 CFR 1400 was periodically discussed during OMS/SEC weekly meetings. During these meetings, Ms. Lennon, Chris Luer, and Nicholas Fechter would often talk about walkaround strategies to the 5 CFR 1400 requirements to include filing extensions or exemptions with OPM/ODNI or accepting the requirements associated with the regulation but utilizing a pre-determining strategy when obtaining PDT/PDR outcomes. Bottomline, OMS believed that certain personnel required certain investigations that required the use of a SF86 application

form, which included questions concerning foreign activities and lineage. During these discussions, SEC always argued for full compliance to 5 CFR 1400 with an emphasis on moving the process forward. It should be noted that these meetings/discussions were also attended by Fred Lang (Director, SEC) and Frances Hodge (Chief, Personnel Security Division).

In furtherance of the aforementioned discussions, on April 11, 2017, Nicholas Fechter, was assigned to submit a formal request to OPM asking for an extension to complete the requirements associated with 5 CFR 1400. The email, addressed to Lisa Loss, SUI TEA@OPM.GOV, read as follows:

"I am writing this morning to formally submit a request for an extension in implementing 5 CFR 1400 at the Broadcasting Board of Governors (BBG). While the agency has been working to become fully compliant with the regulation, we are requesting more time to review and re-assess all of the covered positions at the agency. Our delayed progress is, in part, due to the complicated nature of national security positions within the agency, the BBG's history with position sensitivity matters, and the agency's current resources. Full implementation of 5 CFR 1400 is and will remain a priority for the agency, and we hope to work with you going forward on establishing a more fitting expectation for full compliance."

"Of course, I can be available at your convenience to get into more of the specific challenges we have encountered with full implementation of 5 CFR 1400, should that be helpful."

It should be noted that neither Lisa Loss nor OPM ever acknowledged Mr. Fechter's request for an extension; however, they should have responded, as the request was forwarded during the permitted cycle of change (June 2015-Jun 2017). With that said, most of what is contained in Mr. Fechter's email is disingenuous at best, as the agency had not taken one step toward compliance other than having open discussions on how the agency could bypass the regulation. A copy of Mr. Fechter's email is appended to this response as Attachment 20.

To my knowledge, matters related to 5 CFR 1400 died due to indecision on the part of Marie Lennon and, in-part, David Kligerman (OGC), between April 2017 and March 2018. However, I believe that the announcement of another SNAP inspection, slated for April 2018, kicked related discussions between OMS and OGC into hyperdrive. From these discussions, OMS returned to its earlier thoughts regarding 5 CFR 1400. Marie Lennon immediately penned a letter (appended as Attachment 21) to OPM/ODNI (March 2018), requesting an extension from the timelines associated with 5 CFR 1400. Ms. Lennon's letter referenced Mr. Fechter's emailed extension request, dated April 11, 2017. A second letter was subsequently penned for John Lansing (CEO) that requested an exemption from the requirements associated with 5 CFR 1400. Mr. Lansing's letter was sent to ODNI on May 8, 2018 and is appended as Attachment 22. It should be noted that Mr. Lansing's letter was based on OMS and OGC's belief that all Agency positions should remain at either non-critical sensitive or critical sensitive levels.

Although three official requests were sent to OPM/ODNI, one of which from the Director of a U.S. Government Agency, neither OPM nor ODNI responded until August 2019. The answer, which was contained in the 2018 SNAP Final Report, to the query amounted to, we will review your request and get back with you. This inaction is highly suspect, disrespectful, and should be questioned. As will be disclosed later in this response, Ms. Lisa Loss (OPM), also routinely ignored requests from SEC for assistance and information.

Finally, USAGM began its compliance efforts regarding 5 CFR 1400 upon receipt of the 2018 SNAP (Draft) Report in October 2018. OMS spearheaded the effort by hiring contract personnel who were trained and began the process of producing PDRs based on information contained in preexisting position descriptions (PD). A review of their work was later conducted during the 2020 SNAP inspection revealed that many of the OMS produced PDRs led to a finding that positions were sensitive in nature when OPM identified the same positions as public trust positions. For additional information see Assessment 2018 SNAP Report (Page 35 this response).

SECTION V – Answers to Associated Allegations:

Subsection 1 - Allegation 1:

We have reason to believe your background investigation which granted you a security clearance was done by USAGM (or USAGM's predecessor agency, the Broadcasting Board of Governors, "BBG") when the USAGM lacked the proper authority to investigate and perform background checks.

- a. See Office of Personnel Management (OPM) reports, Appendix B
- b. See information from HR on date of background check, Appendix C

Response:

The investigation authorizing my Top-Secret clearance was performed by OPM in approximately 2003. I have since been subjected to numerous periodic reinvestigations (PR), to include a PR in 2013 conducted by BBG. It should be noted that in addition to the 2013 PR, the Central Intelligence Agency (CIA) conducted its own independent investigation of my background to validate my Sensitive Compartmented Information (SCI) status. My SCI status was subsequently approved by the CIA following my 2013 PR. My last PR (Tier 5R) was closed by the DCSA on April 15, 2020.

Regarding the Agency's expired delegated investigative authority, the agency technically loses its authority when it is suspended, withdrawn, or revoked. This statement is consistent with the actions that OPM recently took when it revoked USAGM's delegated authority in October 2018. Prior to the point of revocation, OPM authorized, monitored, and critiqued all USAGM personnel security processes to include investigations, adjudications, eQIP usage, and all processes utilized to complete those actions (see "Delegated Authority" for additional information).

This does not excuse USAGM's failure to renew its OPM MOU; however, OPM was aware that BBG/USAGM failed to renew its MOU in 2012 (MOU expired December 31, 2012); however, it provided no Agency notification nor took any other action until 2014/2015. Initial Agency notification was included in the 2014 SNAP Draft Inspection Report received in September 2015. The 2015 notice was initially distributed to three Agency officials, but none of the recipients (Marie Lennon, Frederick Lang, nor Carroll Cobb) chose to answer the issue by simply ordering the renewal of the MOU. It should be noted that in the 2015 notice, OPM did not suspend or revoke USAGM's delegated authority nor did they impose any punitive action, to include termination of SEC's connectivity/ability to conduct investigations. In fact, between January 2013 and October 2018, OPM continued to accept all USAGM security investigations and acknowledged the actions by recording administrative, investigative, and adjudicative activity within their Central Verification System (CVS). OPM authorized each USAGM investigation from start to finish.

Moreover, In July 2017, OPM issued the final 2014 SNAP inspection report to USAGM that contained information concerning USAGM's failure to update delegated authority; however, they again issued no suspension, revocation, or restrictions that in any way limited USAGM's authority nor capability to perform personnel security background investigations (see "Delegated Authority" for additional information). More importantly, ODNI, which has oversight responsibility of personnel holding sensitive positions, did not invalidate, revoke or in any way rescind USAGM's delegated investigative authority between 2013 and August 2019 nor did they ever invalidate or revoke any clearance issued by BBG/USAGM during the aforementioned period.

Per Executive Order (EO) 13467, as amended by EO 13764, Sec. 2.5 establishes and designates Executive Agents. Sec. 2.5(b) identifies the Director of the Office of Personnel Management as the Suitability Executive Agent (SuitEA) who has primary oversight of Suitability Actions. Likewise, Sec. 2.5(e) establishes the Director of National Intelligence as the Security Executive Agent (SecEA). Per Sec. 2.5(e)(i) the SecEA will, "...direct the oversight of investigations, reinvestigations, adjudications, and as applicable, polygraphs for eligibility for access to classified information or eligibility to hold a sensitive position made by any agency."

As of October 2018, the SuitEA suspended USAGM authority to conduct security investigations, which by itself does not retroactively change previous investigations. Likewise, in August 2019, the SecEA acted against our delegated investigative authority; however, never acted against any past or present investigative action or national security clearance issued by BBG/USAGM. To date, the SecEA has not suspended, revoked, or invalidated any USAGM national security clearance or restricted any USAGM employee from holding a sensitive position.

In March 2012, the SecEA established its first "Security Executive Agent Directive" (SEAD) to convey DNI policy regarding national security investigations/adjudications. SEAD 1, dealing with authorities and responsibilities, effective March 13, 2012, stipulates under Section E(2), "Existing delegations of authority to any department or agency relating to granting eligibility for access to classified information and for conducting investigations shall remain in effect, subject to the exercise of authorities by the SecEA to revise such delegation." USAGM's delegation of authority was in good standing when SEAD 1 went into effect, therefore security investigations, to include national security clearances, unless otherwise affected, remain in good standing. A copy of SEAD 1 is appended to this response as Attachment 23.

In closing, between 2013 and 2018, all BBG/USAGM personnel were properly investigated utilizing cleared and certified investigative and adjudicative personnel. Each administrative action, investigation, and adjudication was accepted, monitored, and closed by OPM via their Central Verification System (CVS). OPM routinely provided investigative information (Fingerprint Responses, Name Checks, and other required information) and approved each and every BBG/USAGM investigation throughout the period including January 2013 to October 2018. Based on the aforementioned assessment, I currently hold a Top-Secret SCI security clearance, which is sufficient to maintain my position as the Director of the Office of Security.

Subsection 2 - Allegation 2:

After receiving numerous reports from and consulting with other federal agencies, including the Office of Personnel Management (OPM) and the Office of the Director of National Intelligence (ODNI), it has become clear that the U.S. national security interests have been severely jeopardized at USAGM by persistent failure to remedy personnel and other security concerns.

- a. While you were in a senior leadership role, including but not limited to your role as the Director of the Office of Security, with a direct influence over the issues cited as security concerns by internal and external assessments, you failed to take necessary corrective action.
 - i. See Office of Personnel Management (OPM) reports, Appendix B
 - ii. See USAGM Office of Risk Management Profile OGC, Appendix D

Response:

Subsection 2a - SNAP Inspection Overview:

SNAP actions are routine inspections conducted by OPM and ODNI on an irregular basis. The reasoning provided for SNAP inspections is to provide an onsite validation of metrics, policy, practices, and agency compliance to regulatory requirements dealing with the personnel security and suitability programs. The SNAP inspections are also completed to assist agencies with compliance issues. The inspections are typically conducted by OPM and ODNI personnel who collect information concerning their areas of responsibility. OPM, the Suitability Executive Agent (SuitEA), conducts inspections for suitability process while ODNI, the Security Executive Agent (SecEA), evaluates security activities associated with national security process. Both organizations issue separate reports containing their observations and recommendations for change.

SNAP inspection processes require a whole office/team approach which means that many, if not all assigned SEC and Office of Human Resources (OHR) personnel, participate in the review of specific aspects of the overall program. The inclusion of most personnel in the process can end in some confusion or misunderstandings. People subjected to interview can be misunderstood or misquoted, which can lead to inappropriate recommendations and expectations by the investigative body. For example, a security assistant (SA) was interviewed during the 2020 inspection concerning pre-screening, which is a term she did not recognize. SEC utilizes the term, pre-suitability for pre-screening, which caused an issue and led to a recommendation (SEC has since corrected this term to pre-screening). Likewise, nerves and misquotes play a part in the interview process, which have led to recommendations being written. In this case, questions concerning the use of 5 CFR 731 caused some form of nervous reaction by the adjudicator which, according to the adjudicator, led to her fumbling through her answer. Ultimately, the adjudicator related that she was misquoted when the SNAP report was issued; however, that did not stop the team from issuing another recommendation.

My point here is that an SA, with less than two-years of service, and an adjudicator, with over 20 years-experience, can create issues which are interpreted by a team of security professionals as something that they are not and therefore the unit as a whole is held responsible for the issue. In other words, no one person should be held responsible for an all-inclusive inspection process that involved SEC, OHR, and the Office of Management Services (OMS) personnel. SNAP inspections are a team process that requires a team approach, which should be handled as such when the results are announced.

Subsection 2b - SNAP Responsibilities

I joined the Agency as an investigator in 2005 and remained in that position until asked to become the investigative team lead in 2010. As a team lead, I continued to conduct investigations, but I was also responsible for monitoring case issuance, assisting other assigned investigators with issues, and other like work. In July 2014, my responsibilities were expanded to cover the supervision of the investigative personnel and a security assistant. In January 2016, following the retirement of Peter Lagerberg, Chief, Personnel Security Division, I assumed the title Chief, Investigations Branch. In this position I supervised investigative personnel, conducted investigations, tracked case assignments, monitored administrative process, and other associated responsibilities. Finally, in April 2018, I was selected as Director, Office of Security. It should be noted that Mr. Lagerberg's position was not filled until April 2018 when Ms. Hodge laterally transferred from her position as the Chief, Adjudications Branch and assumed the role of Chief, Personnel Security Division, upon my selection as Director.

As an Investigative Team Lead, I began to have some influence in 2014 in relation to the investigative and administrative tracts within the office. During this period, the Adjudication Branch was overseen by the Frances Hodge, Team Lead; the Physical Security Division was managed by Thomas Allen, Chief, Physical Security Division; the Personnel Security Division was managed by Peter Lagerberg, Chief, Personnel Security Division; and the office was overseen by Frederick Lang, Director. Each person had influence over their areas of responsibility.

My influence or lack thereof, did not stop me from making notifications and requests concerning changes I saw coming that would alter SEC's investigative and administrative processes within the Office of Security. In 2009/2010 I notified SEC management that the security community was shifting and that the current investigative programs would be changing to a Tier Investigation process that required shifts in investigative and administrative process. Based on this notification, I developed administrative changes within the office that would allow SEC a smoother transition into the new program. In 2013/2014, SEC began the transition into the Tier process and became fully engaged within mandated timelines (2016). This process was completed without my knowledge that the Agency's delegated investigative authority had expired.

In May 2015, I received information that the security community would soon be experiencing another shift that included a mandatory reassessment of all Agency positions for

sensitivity/risk. These changes were required under the newly passed federal regulation, 5 CFR 1400. The regulation mandated the use of the Position Designation System (PDS) and provided a 24-month window, beginning in July 2015, to accomplish this process.

Based on the community-wide notification related to 5 CFR 1400, I immediately notified the SEC Director and the CPSD. I was subsequently asked to brief the OMS Director, Marie Lennon. In May 2015, Ms. Lennon was provided with a copy of the program's announcement and briefed on the process. Ms. Lennon never accepted the notification nor acknowledged my explanation or the program until about December 2016 (19 months later), even though the issue was continually brought to her attention throughout the period.

It should be noted that the PDS system was not new nor based on the new federal regulation. In fact, the federal regulation was instituted to mandate its use. USAGM management continually looked past orders to utilize the PDS, dating back to at least 2010, as the use of the PDS is mentioned in the letter associated with an apparent 2010 SNAP inspection, dated March 2, 2012, contained in Exhibit B material. The recommended use of PDS was also mentioned in all SNAP inspections thereafter but was continually ignored until USAGM received the 2018 SNAP Inspection Draft Report on October 22, 2018.

OMS was responsible for coordinating the implementation of 5 CFR 1400 and OHR was responsible for the implementation of the regulation. Both failed to initiate any effort toward compliance until after the Agency lost its delegated investigative authority in October 2018. Nevertheless, OMS continued its campaign against the change by recommending that then CEO, John Lansing, request an exemption from 5 CFR 1400 after the timeline for change had closed (July 2015 to July 2017). The exemption request was submitted; however, OPM has not directly responded. Please note that these actions were taken by OMS/OHR against my strong objection. I continually advocated for compliance with 5 FR 1400, as it was necessary to establish a foundation that would assist in the vetting of all Agency related personnel.

In 2017, Mr. Lang retired and Marie Lennon, OMS Director, assumed responsibility as the Acting Director of the Office of Security and therefore assumed supervisory responsibility over Ms. Hodge, Mr. Allen, and me. In December 2018, Mr. Allen retired, and his position has yet to be filled.

In relation to SNAP inspections and the resulting recommendations, I participated in my first SNAP inspection process in 2006 (I started with the Agency in 2005); however, I did not actively participate in the corrective process related to these reports until the 2014 Draft SNAP Report was received in 2015. My responsibilities in relation to 2014 Draft SNAP report, amounted to writing the response for approximately six recommendations identified in the 2015 SNAP Draft Report dealing with investigative process. Subsequently, I worked on corrective activities when the Agency received the 2014 Final SNAP in July 2017. To my knowledge, Mr. Lagerberg was responsible for the overall response and corrective activities related to the 2010 and the 2014

SNAP inspection processes. I did, however, actively participate in the 2018/2020 SNAP inspections, and took immediate steps to correct issues identified within those reports.

The following information is a breakdown of the 2014, 2018, and the 2020 SNAP Inspection reports with corrective actions noted:

Subsection 2c - SNAP Inspections

In relation to the 2014, 2018, and 2020 SNAP inspections, the major issues surrounding each process dealt with either the lack of delegated authority and/or BBG/USAGM's failure to comply with the federal regulation, 5 CFR 1400 (reclassification of Agency positions). Several other issues did not meet standard; however, the issues that seriously affected our delegated investigative authority amounted to inaction, indecision, and poor judgement related to the aforementioned issues by senior leadership.

Subsection 2d - 2014 SNAP Inspection

On September 25, 2014, BBG was subjected to a SNAP inspection performed by personnel assigned to both OPM and the Office of the Director of Intelligence (ODNI). On November 6, 2015, a written draft report was issued which listed 25 recommendations requiring BBG's attention. At the time the report was issued, I was acting as a team lead for investigations and as such was never provided with a complete copy of the draft report. However, I was asked to write responses for a few of the recommendations dealing with investigative activity. The corrective activities related to this report, I assume, fell to Peter Lagerberg (Chief, Personnel Security Division), Fred Lang (Director, SEC), Marie Lennon (IBB/OMS Director), and Carrol Cobb (Director, OHR).

A review of the 2014 SNAP report cover letter indicates that the draft report was sent to Marie Lennon (OMS), Fred Lang (SEC), and Carroll Cobb (OHR). The copy of the cover letter is appended as Attachment 24). A response to the draft report was written by Marie Lennon and sent via email with the Agency's response (see Attachment 15).

A review of Ms. Lennon's email response shows that with the exception of a sentence revision, she basically agreed with each recommendation. As I would later learn (2018/2020), this was a typical position that Ms. Lennon took so that she would not rankle the inspectors by questioning their observations. Generally, this is a poor tactic, as BBG is allotted one bite at the apple to correct the identified recommendations before the finale reports are issued.

Moreover, attached to Ms. Lennon's response is the Agency's answer to recommendations identified during the inspection. Of interest here is OMS's answer to Recommendation 2.

Recommendation 2 reads, "Within 24 months, OHR must ensure all covered positions are correctly designated using the PDT [Position Designation Tool], in accordance with current policy." The OMS answer reads as follows on page 5 of Attachment 21:

"Response: BBG agrees with the recommendation insofar as the use of the PDT would not prevent BBG from categorizing all of its positions as at least sensitive. BBG has

been operating under a head of agency determination that all positions are sensitive, thus requiring use of the SF86. The Agency, in conjunction with our Office of General Counsel are reviewing the basis for this determination and will we keep ONI and OPM informed of the outcome.”

OMS’ answer to Recommendation 2 is incompatible with 5 CFR 1400, which mandates the use of the PDT to determine the sensitivity and the risk of each position. Lacking the flexibility to abide by the findings of the PDT does not conform to the regulation and places the Agency’s delegated investigative authority in extreme jeopardy. Thereafter, Ms. Lennon remained consistent in her opinion that all positions in BBG/USAGM would remain non-critical sensitive or critical sensitive based on her belief that foreign nationals could not be properly vetted without the use of the SF86 application, which included questions related to foreign family members, business connections, and other related queries.

A closer review of the SNAP report revealed several issues related to SEC and OHR’s process; however, the most remarkable issue was found under “Policies and Procedures,” page 26, which reads as follows:

“During the course of our review, we determined BBG is operating without the proper delegated authority. The 2010 MOU for Delegated Investigative Authority was valid for two years and expired in December 2012. When we asked the SEC Chief [Mr. Lagerberg] about the existence of any current MOU’s, he stated OPM staff did not provide an update version for signature and told him the 2010 MOU was automatically renewed and remained in effect.”

“However, we found that OPM sent an MOU to BBG in January 2013. BBG asked for modifications to the signature block and requested the omission of the requirement to use eQIP. OPM updated the signature block and provided an explanation to BBG regarding the eQIP requirement. The updated MOU was emailed directly to the SEC Chief in April 2013, and again in June 2013. BBG did not sign and return the MOU to OPM as required. Therefore, BBG has been operating without the proper delegated authority since December 2012.”

The 2014 Draft SNAP Report was the first official notification (see Attachment 20, page 26), excluding notifications sent directly to Mr. Lagerberg, that indicated an issue with the agency’s delegated authority existed. Unfortunately, not one of the report recipients acted upon this notice nor did OPM ever send additional notices to BBG or act to either suspend or revoke BBG’s delegated authority. Instead OPM continued to accept and process all BBG investigative notices, investigative closures, and adjudication closures (79a).

Additionally, the 2014 SNAP Draft Report also mentions the following information:

- 1) Investigations/reinvestigations occur within 14 days of position sensitivity upgrade (Rec 5)

- 2) Position Designation Tool (PDT) training (Rec 1)
- 3) OHR must designate sensitivity for each position utilizing the PDT (Rec 2)
- 4) Establish an effective means of communication between SEC and OHR for reporting of designation upgrades (Rec 4)
- 5) Position Designation Record (PDR) is maintained for each position (Rec 3)

Each of the above five recommendations, which deal with 5 CFR 1400, were not immediately acted upon, as the agency apparently had no intention of transitioning from its position that designated all Agency positions as non-critical sensitive or critical sensitive stance (see OMS' response to Recommendation 2, Attachment 15). This will be further explained when reviewing the 2018 SNAP Inspection Report.

A review of the Final 2014 SNAP Report, dated July 20, 2017, revealed 17 Recommendations (25 Recommendations were identified on the Draft SNAP) and a notice identifying the fact that BBG's delegated authority had expired in December 2012 (December 31, 2012). The notification can be found under Policies and Procedures, Page 23. Additional comment regarding the Agency's delegated investigative authority can be found under "Delegated Authority" in this response.

Subsection 2e - Assessment 2014 Final SNAP Report:

On or about July 20, 2017, the Final SNAP report was received and reviewed by SEC. At the time of receipt, Fred Lang (Director), France Hodge (Chief, Adjudications Branch) and I (Chief, Investigations Branch) reviewed the report and attempted to discern what Peter Lagerberg (Former Chief, Personnel Security Division) had accomplished concerning the draft of the same report received in 2015.

A review of the 2014 Final SNAP Inspection Report revealed that the following:

- 1) Recommendations **1, 2, 3, 4, 5, 6, 7**, and 21 directly or indirectly dealt with an OHR performance issues. Please note that Recommendations 1-5 deal directly with the development of a program based on 5 CFR 1400.
- 2) Recommendations **4, 6, 9, 10, 16, 20, 21, 23, 24, 25** directly or indirectly dealt with a SEC performance issue.
- 3) It remains unclear whether Office of Contracts (OC) was identified related to any of the recommendations.
- 4) Recommendations 8 and 15 were closed by OPM

****Please note, the bolded recommendations indicate a direct tie to the identified office.**

Based on the final report, Marie Lennon, who received a copy of the report, was appraised of the findings. As several actions dealt directly with OHR, SEC will comment on their process of repair when in possession of related information. Otherwise, SEC completed the following actions concerning the 2014 SNAP Report:

- 1) Recommendation 4: Rec 4, which dealt with communications of PDT/PDR information between SEC and OHR, was assigned to OMS and OHR, as this system is an inherent process related to requirements mandated under 5 CFR 1400.
- 2) Recommendation 6: SEC and OHR complied with Rec 6, which dealt with the use of eQIP for investigations, and thereafter initiated all official investigations via eQIP.
- 3) Recommendation 9: In relation to Rec 9, SEC assigned a senior physical security specialist to assume the role of fingerprint adjudicator. The responsible individual was trained by the Chief, Adjudications Branch (CAB) and was expected to perform the function.
- 4) Recommendation 10: In relation to Rec 10, which dealt with CVS credential reporting, Sec assigned a senior physical security specialist to conduct this action. The responsible party was provided training and access to OPM's CVS by the CAB.
- 5) Recommendation 16: In relation to Rec 16, the CAB immediately trained and instructed each adjudicator in relation to the requirement to utilize a separate and distinct suitability determination in accordance with 5 CFR 731.
- 6) Recommendation 20: Regarding Rec 20, which deals with clearances in an unknown status, the CAB immediately reviewed the CVS and corrected any open adjudicative cases.
- 7) Recommendation 21: Rec 21 deals with Certificates of Investigation (COI) that are required to be passed from SEC to OHR when an investigation is successfully closed. The COI must be maintained in the eOPF. Based on this recommendation, SEC immediately provided instruction and training to the adjudicative staff related to the function of and the requirement associated with COIs. The CAB provided the training and mandated the requirement with all assigned adjudicators. SEC began the transfer of the COI immediately; however, it is unclear whether OHR properly filed the forms in the eOPF.
- 8) Recommendation 23: Dealing with Rec 23, which deals with the updating of manuals and directives, The Chief, Investigations Branch (CIB) wrote a new SEC Directive that replaced the outdated investigative manual.
- 9) Recommendation 24: Rec 24, which dealt with investigators going beyond established federal investigative standards regarding the questioning of applicants, SEC immediately terminated the use of the questions mentioned in the report. Investigators were advised of this change and were provided with an OPM Investigative Manual for reference by the CIB.
- 10) Recommendation 25: In relation to Rec 25, SEC informed OPM that the overage of SAC (Special Agreement Check) requests (SAC requests equate to name check and fingerprint checks run by OPM) was connected to sanctioned SAC checks for grantee personnel. This information was provided to OPM and the recommendation was fulfilled.

Each and every recommendation associated with SEC was reviewed and settled as described above. Based on information provided by SEC, Recommendations 8, 11, 12, 13, 14, 15, 17, 18, 19, and 22 were closed by OPM. Recommendations 8, 12, 13, and 14 were closed based on my personal input. On the other hand, OMS/OHR, as previously discussed, had no intention of complying with 5 CFR 1400 and hence Recommendations 1, 2, 3, 4, and 5 were not fulfilled. Likewise, OHR failed to remedy the recommendations associated with their onboarding responsibilities (Recommendations 6, 7, and 21); however, it should be noted that eQIP was initiated shortly after the 2014 inspection fulfilling Rec 6.

Note: BBG began the use of eQIP in 2015 time period. The eQIP system was utilized for initiating all investigations by three separate offices. OHR utilized the system to initiate new hires, the OC used the system to initiate new contractors, and SEC utilized the system to initiate periodic reinvestigations (PR). Each office was provided access to the eQIP system via operational requests from SEC and each operator was trained in the use of eQIP, prescreening, and reciprocity through OPM and/or SEC. Each operator was responsible for the collection of initial paperwork, providing a tentative offer, formulating a security package, and to conduct a reciprocity search of the Central Verification System (CVS). OHR and the OC ran frontend operations from 2015 to 2018.

Subsection 2f - Assessment 2018 SNAP Report:

In April 2018 members of the SNAP team visited USAGM and conducted an inspection. On October 22, 2018, USAGM received a copy of the SNAP Inspection Report (draft copy) explaining the results of the SNAP inspection. Explained within this report were 37 recommendations identified during the inspection process. In response to this draft report, USAGM/OMS, against the wishes of SEC, took responsibility for each and every stated OPM Recommendation identified within the report without due consideration of inaccuracies identified (see page 3 of the 2020 SNAP Report). The reasoning provided by OMS for surrendering each issue was that they did not wish to challenge the inspectors or the inspection report.

On August 8, 2019, USAGM received OPM's final 2018 Draft Report which again identified 37 deficiencies, to include a failure to secure delegated investigative authority and failure to comply with 5 CFR 1400, both of which were more thoroughly explained earlier in this response.

Concerning the SNAP Report and issues it identified related to 5 CFR 1400, the report provides several quotes from individuals involved in USAGM's onboarding process that make clear USAGM had knowledge of the requirement, chose not to comply, and reasons for non-compliance. In the report, OPM initially identified the fact that USAGM does not use position designation or the PDT and then provided quotes from the CAB, OHR Operations Chief, and the Director of Security. The following excerpts were copied from the 2018 SNAP Inspection Report (final), pages 12 and 13:

OPM inspector stated, "USAGM failed to take corrective action on a finding related to position designation following our 2014 review and still does not use the PDS to designate all covered positions, as required."

"According to the Adjudications Chief, OHR is responsible for position designation. The Adjudications Chief stated that OS [Office of Security] is aware of the requirement to use OPM's PDS [Position Designation System] to accurately designate positions, **but that OHR has been unwilling to use the system required.**"

"The OHR Operations Chief stated **they do not use the PDS, and will not use it**, due to the uniqueness of the USAGM's mission and the fact they employ non-citizens."

"The Director stated position designation and meeting the requirements of 5 CFR 1400 has been a shaky situation. He stated **USAGM's Office of General Counsel (OGC) believes USAGM is exempt from redesignation requirements** because of the agency's mission and staffing patterns. The Director stated he has been aware of the requirement to use OPM's PDS since we issued the report of our 2014 review but added that **senior leadership were unwilling to comply.**"

These quotes speak volumes related to how the Agency approached 5 CFR 1400. SEC is aware of the requirements to use the PDS; however, OHR, "will not use it." It should again be noted that I introduced OMS, which manages SEC, OHR, and other unrelated offices, to 5 CFR 1400 requirements in May 2015 and attempted to push changes in process to comply with the federal regulation. Based on OMS' inaction, no changes were made to OHR process nor to USAGM policy, which placed SEC in the unenviable position of conducting investigations without proper PDR classifications.

If, in fact, USAGM/BBG created deficiencies which negatively impacted the efficiency and integrity of the Federal service or inconsistencies related to national security, failure to properly designate positions for sensitivity and risk is the key reason for said contravention. The proper designation of Agency positions is the core of the reciprocity driven Tier investigative process.

OMS' inaction amounted to thumbing their noses at compliance agencies, OPM/ODNI, which pushed OPM/ODNI to do what compliance agencies do best, close down agencies. SEC saw the writing on the wall and knew that the 2018 SNAP Inspection Report would be devastating, as we knew that OPM/ODNI were tired of the same non-response from USAGM/OMS, so they acted to create change. Surprisingly, OPM/ODNI's shutdown of SEC's investigative operations finally accomplished OPM, ODNI and SEC's goal, Agency compliance.

Subsequent to the October 22, 2018, SNAP inspection results (draft), two things occurred, the Agency lost its delegated investigative authority and OMS instantaneously changed its position on 5 CFR 1400. It should be noted that OMS began the process to comply with the federal regulation 41 months after original notification and 16 months past the compliance deadline.

Many of the identified recommendations dealt with 5 CFR 1400 compliance, to include the following:

Recommendation 1: USAGM must immediately cease all investigative activities and must immediately transfer all investigative work to NBIB.

Recommendation 2: USAGM must ensure that all covered positions are designated for both risk and sensitivity using OPM's PDS.

Recommendation 3: USAGM must maintain a PDR (or equivalent) for each covered position, per OPM's Suitability Processing Handbook.

Recommendation 4: USAGM must ensure all USAGM employees tasked with position designation responsibilities are operating in a fair and reliable manner.

Recommendation 5: USAGM must re-designate all positions for all employees whose position does not accurately reflect requirements of the position, in accordance with 5 CFR 1400.

Recommendation 6: USAGM must request the correct level of investigation based on the accurate position designation, per 5 CFR 1400, OPM's PDS, OPM issuance and Federal Investigation Notices, and the Federal Investigative Standards.

In response to Recommendation 1, of the 2018 Draft SNAP Report, SEC immediately began to transfer all investigative operations to National Background Investigations Bureau (NBIB). In December 2018, all new applicant cases were being sent to NBIB. Subsequent to the reopening of the Federal Government (government closed due a lapse in appropriations) SEC began the tedious process of discontinuing open and backlogged cases and forwarding these cases to NBIB as quickly as applicants could complete new security applications (SF-86) and as fast as SEC's limited staff could approve the applications. It should be noted that there were delays in the process of reinitiating investigative applications to NBIB, as no position designation reports had been developed and many Agency employees were associated with the unions. Union personnel may take up to 45-days before initiating their application for investigation (eQIP).

This process was ongoing while SEC completed its regular mission of processing new applicants through onboarding with no additional assistance offered. Security, with the approval of OMS, chose to discontinue active investigations and reinitiate them with NBIB before beginning a program to reinvestigate all personnel who were previously investigated between 2013 and 2018. This prioritization process was followed, as current and discontinued cases represented personnel working within the Agency who had not been fully vetted during a previously conducted investigative process. It was also assumed that many of the backlogged cases were personnel who were in the process of a periodic reinvestigations (PR), which would cover them related to the 2013-2018 OPM order (OPM provided a list of 1527 individuals requiring new investigations). Once this process to reinitiate active cases was complete, SEC began the process of reinitiating cases related to OPM's order. To date, most if not all personnel requiring

reinvestigation, per OPM, have been processed for investigation with the Defense Counterintelligence and Security Agency (DCSA). Please note that DCSA assumed the task of providing background investigations from NBIB in 2019.

Based on Recommendations 2, 3, 4, 5, and 6, which are the responsibility of OHR, OMS instituted a plan to begin the process of formulating a team of contractors who would immediately begin running all Agency PDs through the Position Designation Tool (PDT) and obtaining a Position Designation Records (PDR) that would be utilized by SEC when identifying levels of investigation. Before beginning this process, SEC warned Mr. Fechter (OMS), who was responsible for the project, that SEC must be immediately notified of any position upgrades determined during the PDR process, as a new investigation must be initiated within 14-days of the finding.

Curiously, OHR was not held responsible for 5 CFR 1400 before or after the inspection. In fact, OMS assigned Mr. Fechter (OMS) to lead the process to begin the sensitivity reevaluation of all agency positions instead of assigning the task to OHR. He did so by hiring temporary contractors, who he trained to conduct PDS operations. Without true regard for the underlying position descriptions (PD), his team began the process of entering information into the PDT and obtaining the required PDRs. These PDRs were then entered into a central data repository, as required by OPM.

Since USAGM was not utilizing 5 CFR 1400 standards or the PDT at the time of the 2018 inspection, a comparison of USAGM's PDR findings could not be made; however, a comparison is possible in relation to the 2020 SNAP Report, page 20-21, narrative, and Table 2. This table indicates that numerous USAGM PDT findings remain out of balance with OPM designations and that all USAGM designations, with the exception of one, remains as sensitive positions while all of OPMs designations are public trust. This issue is problematic and must be resolved immediately.

Several problems were identified related to the OMS process. OMS never developed an OHR team to complete this process nor was an office within OHR established to handle PD and PDS processes in the future. Moreover, along with the fact that OMS never advised SEC about upgraded positions until after the process was complete, SEC personnel later identified several PDR results that seemed incorrect based on a PD evaluation. This information was immediately brought to the attention of OMS who responded by ordering SEC to stop running comparative PDRs and use the PDR created during the OMS process. This order was received by Chris Lauer and SEC reluctantly complied.

Even though SEC was staunchly behind compliance to 5 CFR 1400 and provided guidance and information concerning 5 CFR 1400 beginning in May 2015, OMS circumvented a federal regulation until the suspension of the Agency's delegated investigative authority. Moreover, OMS ignored multiple OPM warnings regarding compliance. In doing so, OMS removed any possibility that the Agency would be compliant with 5 CFR 1400 prior to the April 2018 SNAP

inspection. This coupled with the Agency's failure to reestablish delegated investigative authority guaranteed the loss of BBG/USAGM's delegated investigative authority to conduct security investigations (see "5 CFR 1400" and "Delegated Authority").

Subsection 2g - Assessment 2018 Final SNAP Report Recommendations:

Based on the 2018 SNAP Inspection Report (final), SEC, in coordination with Ms. Lennon (OMS) and OHR formulated the following corrective actions as delineated in the SNAP report:

- 1) Recommendations **2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 17, 18**, directly or indirectly dealt with an OHR performance issue. Please note that Recommendations 2-6 deal directly with the development of a program based on 5 CFR 1400.
- 2) Recommendations **1, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37** directly or indirectly dealt with a SEC performance issue.
- 3) It remains unclear what part the Office of Contracts played in the SNAP findings.
- 4) Several recommendations were closed by OPM pre-final report. These recommendations will be discussed in this assessment.

****Please note, the bolded recommendations indicate a direct tie to the identified office.**

Based on the final report, Marie Lennon, who received a copy of the report, was appraised of the findings. As several actions dealt directly with OHR, SEC will comment on their process of repair when in possession of related information. Otherwise, SEC completed the following actions concerning the 2018 SNAP Report:

- 1) Recommendation 1: Upon receipt of the SNAP Inspection Report (draft) in October 2018, SEC immediately initiated actions to transfer all new and active cases to NBIB. Actions are further explained in previous paragraphs of the response (see page 18 of this response). Recommendation Closed
- 2) Recommendation 2, 3, 4, 5, and 6: The noted recommendations deal with the Agency's failure to comply with 5 CFR 1400. The corrections associated with these recommendations were handled by OMS/OHR and are explained earlier in this response (see pages 20-22).

Regarding Recommendations 2, 3, 5, and 6, OPM acknowledged USAGM's exemption request dealing with 5 CFR 1400, dated May 18, 2018. This is the first acknowledgement of any correspondence sent by USAGM to OPM since 2017. More specifically, OPM wrote, "OPM will review USAGM's waiver request and will reply to the concerns in that letter in a separate response." It is unclear at this point how this request will be viewed by OPM.

- 3) Recommendations 7, 8, 10, 11, 12, 13, 14, 16, 18, : In response to the noted recommendations, dealing with mandatory eQIP usage; usage of the correct

application forms (SF85, SF86, etc.); prescreening; 5 CFR 731 usage; paperwork review; OPM referrals, reciprocity checks; eQIP approver qualifications, and issues related to IRTPA standards (14 day initiations), SEC immediately developed a process to handle the aforementioned responsibilities within SEC and then terminated OHR and the OC access to the Central Verification System (CVS) and eQIP. It should be noted, that at the time OHR and OC handled the onboarding of their respective clientele. SEC did not handle onboarding but completed eQIP services for periodic reinvestigations only.

This plan was developed, as SEC could not rely on OHR or OC to conduct OPM requirements. OHR, in particular, ignored the requirements associated with conducting prescreening, reciprocity reviews, pre-suitability reviews, and eQIP initiation reviews. OHR and OC's ineffectiveness in these areas was overtly affecting SEC's ability to conduct business within the realm of compliance. Upon implementation of the plan, OHR and OC were trained, or offered training, concerning their responsibilities associated with onboarding personnel through the security process. They also received training offers concerning the use of the PDS, PDT, PDR, and reviews of initial paperwork related to the hiring process.

By finalizing the transfer of the above responsibilities to the newly formed eQIP Office, SEC placed the overall onus of the security process on SEC. Generally, the new process provided control over the system and provided one-stop shopping for all applicants, be they employees, contractors, interns, or other types of personnel.

To institute the change, a coordination memorandum was issued by OMS and SEC, as mentioned under Recommendation 7 of the 2018 SNAP Report (final), which reads in part, "Beginning November 30, 2018, SEC will initiate all eQIP requests relieving OHR and the Office of Contracts (CON) of their initiation responsibilities. This step will ensure proper procedures are followed prior to initiation of eQIP for new employees and contractors." This memorandum, as well as others, were utilized to address and answer several of the issue recommendations identified by OPM.

Concerning the eQIP Office, SEC initially staffed it with one inexperienced contractor. The contractor was supplemented with two FTEs assigned as either a part-time eQIP approver or a part-time eQIP manager. The supplemental personnel are assigned to SEC as a senior physical security specialist and the acting counterintelligence officer, respectively. Staffing was restricted by oversight; however, OMS relented and agreed to approve an FTE, with no previous experience, on detail status. SEC initially cleared the new individual and

then trained/certified her concerning pre-screening, eQIP, CVS, pre-suitability, scheduling processes, and other associated activities. In the end, the detailed individual was released based on an inability to produce. This led to SEC transferring its inexperienced receptionist to eQIP where she was trained and certified.

To date the eQIP Office is accomplishing most pre-set goals; however, SEC expects that USAGM will provide positions for an FTE manager and FTE approver within the eQIP Office. Additionally, funding was requested to offer currently assigned contractors PSC status. This would limit concerns regarding retention of assigned personnel. It should be noted that no additional funding was provided to accomplish any of the changes related to the development of the eQIP office.

- 4) Recommendation 9: Rec 9 deals with utilizing the correct security forms. This issue was completed when USAGM initiated Tiered investigation through the eQIP system. SEC fully utilizes eQIP based on PDR information developed by OHR/SEC.
- 5) Recommendation 15: Concerning this recommendation, which deals with SEC needing to work with NBIB liaison to develop access to all appropriate investigation databases, SEC has communicated with its NBIB liaison who has confirmed that USAGM is not authorized to access JPAS, based on DOD guidelines. Certain aspects of JPAS can be accessed through CVS; however, access to JPAS is restricted.

Regarding access to Scattered Castles, the liaison recommended that we attempt to team with an agency who could provide SCIF access. SEC has identified Health and Human Services as a partner and intends to initiate a MOA/MOU between the two agencies. Currently, HHS is awaiting USAGM's approval of the agreement. Once signed, SEC will have access to Scattered Castles. Moreover, SEC expects that USAGM's SCIF will be finalized as soon as the Covid-19 issue is resolved, which will also provide access to required data-system.

- 6) Recommendation 17: This recommendation deals with the re-dating of forms to satisfy IRPTA timelines. This practice was discontinued by administrative staff following the 2018 inspection. A management directive was issued correcting this action.
- 7) Recommendation 19: Rec 19 deals with manuals and policies utilized by USAGM and issues related to the 14 -day submission period. Personnel have been briefed regarding this issue and this information was included in the SEC Directive. All assigned personnel are knowledgeable of IRTPA requirements. In response to the recommendation, the SEC Directive was reviewed by

investigative personnel assigned to SEC and found to be appropriately maintained.

- 8) Recommendation 20: Based on Rec 20, which requires that each fingerprint result be properly adjudicated, a senior physical security specialist was assigned to routinely adjudicate all fingerprint results received from OPM. This process was assigned in addition to her other duties that include maintaining the physical security of domestic structures and eQIP approvals.
- 9) Recommendation 21: USAGM immediately discontinued this process related to PIV credentials. A management directive was issued as a policy guideline to this corrective action.
- 10) Recommendation 22: In response to this recommendation, dealing with PIV usage and mandated logical access, SEC notified TSI about this concern; however, SEC has no control over the implementation of logical access by the Agency.
- 11) Recommendation 23: Regarding HSPD-12/access concerns, SEC initially communicated OPM's concerns to the Federal Protective Services (FPS) who oversees the contracted guard force. A review of associated post orders was completed concerning entry and exit from the building. Subsequently, physical security personnel reviewed proper access procedures with the guard staff. Additionally, SEC personnel received remedial training concerning HSPD-12, FIPS 201, and conformity to risk-based access control policies.
- 12) Recommendation 24: Based on Recommendations 1 and 24, SEC immediately stopped all investigative activities and began transferring all new and discontinued cases to NBIB for investigation/re-investigation (see process and priorities earlier in the response). Ultimately, SEC initiated all cases investigated between 2013 and 2018 for re-investigation (see pages 18-19, of this response for additional information).
- 13) Recommendation 25: All adjudicative staff were trained and instructed to perform and document a distinct suitability adjudication on every investigation in accordance with 5 CFR 731. Adjudicators were warned that failure to complete this process could lead to administrative sanction. The Chief, Personnel Security Division (CPSD) will monitor this and other adjudicative issues.
- 14) Recommendation 26: Rec 26 deals with the suggestion the USAGM assign the adjudication of background investigations, related to SEC personnel to another agency. While conducting regular operations, SEC adjudicative staff were assigned to enlist the assistance of a government agency to assist with our in-house adjudicative process. Several agencies were contacted and declined until the General Services Administration (GSA) opened talks with SEC that led to terms agreeable to both agencies. An MOU/MOA was established and awaits

USAGM/CEO approval. Once the agreement is signed, SEC is compliant with this request.

- 15) Recommendation 27: Rec 27 deals with the reporting of adjudicative findings within 90 days of closing the case. SEC adjudicative staff were retrained and advised of timelines associated with reporting standards. Adjudicators were warned that failure to complete this process could lead to administrative sanction. The CPSD will monitor this and other adjudicative issues.
- 16) Recommendation 28: Rec 28, deals with the fact that the CPSD was provided with a handwritten list of six individuals that the OPM SNAP inspectors could not verify an appropriate investigation was completed. This issue is further discussed in the 2020 SNAP assessment.
- 17) Recommendation 29: Based on the 2018 SNAP inspection the CPSD was instructed to immediately begin the process of transferring Certifications of Investigation to OHR for inclusion in eOPFs. The CPSD indicated that COI's have been routinely transferred to OHR; however, OHR was not properly placing the document in the eOPF. OHR was contacted and advised of the concern and asked to place the COI appropriately.
- 18) Recommendation 30: Rec 30 deals with the securing of sensitive information to include investigative or adjudicative information. Upon receipt of the 2018 SNAP Draft Report, SEC immediately set new policies related to limiting communications devices, locking office doors and desks, and placing proper signage near SEC's secured and alarmed file room. Access to the file room, which is staffed throughout the day, was restricted to SEC personnel only, as both personnel security and physical security personnel require access to the file room for ClassNet usage and to access either personnel and physical security files stored onsite. See 2020 USAGM SNAP response for additional information.
- 19) Recommendation 31: All personnel accessing classified, sensitive or PII information is cleared at the appropriate level. All SEC personnel are cleared minimally at the Secret level. See Recommendation 30 for additional information.
- 20) Recommendation 32: Rec 32, which dealt with Adjudicative training, was satisfied after certificates of training were submitted by both assigned adjudicators proving that they are were properly trained per national standards. The Chief, Personnel Security Division will continue to monitor this and other adjudicative issues.
- 21) Recommendation 33: Rec 33 deals with the ability of adjudicators to demonstrate their knowledge and understanding of suitability. All adjudicators have been properly trained and have an average of 15 years of experience. Even though, additional work has been accomplished to make them more conversational about their endeavors. It has been proposed to bring in a lead adjudicator who will assist with this process.

- 22) Recommendation 34: Rec 34, which deals with maintaining a favorable determination based on an appropriate level of clearance, led to the review of reported adjudications (CVS) related to assign adjudicative staff. An oversight in reporting was noted and closed regarding one adjudicator whose adjudication was not properly reported in CVS. This issue was immediately corrected bringing the adjudicator to the proper level of clearance to perform her function. All associated personnel were counseled concerning proper reporting requirements.
- 23) Recommendation 35: In response to Recommendation 35, the SEC Directive was again reviewed by investigative personnel assigned to SEC and found to be appropriately maintained. Moreover, the financial form, referenced in the SNAP inspection report was removed from service and will not be utilized in the future.
- 24) Recommendation 36: In response to Rec 36, dealing with staffing element following policy, SEC immediately reviewed the SEC Directive and then ordered each to fully read the manual, so they are fully aware of SEC policy. Periodic checks are conducted to properly acclimate personnel to the requirements. With that said, SEC personnel are required to operate under the requirements set forth by regulating policies like 5 CFR 731, EO 12968, ODNI SEADs.
- 25) Recommendation 37: SEC has discontinued conducting investigations and will not ask for information beyond policy of FIS.

Overall, SEC corrected or adjusted for each issue identified in the 2018 SNAP inspection.

Subsection 2h - 2020 SNAP Inspection:

In February 2020, OPM conducted another SNAP follow-up inspection to survey USAGM's processes concerning the suitability program. In July 2020, a draft report of the inspection was released to USAGM identifying 18 of the 37 Recommendations identified during the 2018 inspection had been closed leaving 19 issues unresolved. The report also identified six "new" recommendations concerning USAGM processes. Notwithstanding, the report revoked USAGM's adjudicative and other delegated suitability and credentialing authorities until such time as USAGM can demonstrate that it has taken corrective action.

Based on this report, SEC/OMS immediately began a self-assessment and correction of associated programs and began writing a response related to the recommendations identified in the 2020 SNAP inspection report. Upon a review of the report it was noted that, as in the 2018 report, glaring issues were identified related to sensitivity/risk designations assigned by USAGM and those run by OPM (see Table 2, Page 20, 2020 SNAP Report). Of interest here is that most OMS/OHR designations were again in the sensitive (T3-T5) category while OPM's designations identified the same positions as public trust, non-sensitive positions (see Recommendation 2). Nonetheless, until this issue it corrected SEC may or may not be investigating applicants at the proper level, which places the Agency in a position where it may be require to conduct new investigations for individuals investigated outside of their true sensitivity and risk ratings. Moreover, this issue also hinges on whether OPM approves or

disapproves Mr. Lansing's request for exemption to 5 CFR requirements, which was mentioned in the 2018 SNAP Report (final) and was attached to the 2020 SNAP Report.

Moreover, Recommendation 6, also relates to the 5 CFR 1400 process concerning designation upgrade notifications which are required to initiate new investigations within 14-days of the designation upgrade. Unfortunately, upgraded positions were not shared by OHR/OMS with SEC until after the overall PDR process, which caused the issue seen in Rec 6.

Concerning the additional unsatisfied recommendations, which basically represent process changes, training issues, personnel issues, and policy edits, each was provided a proposed corrective action that will be forwarded to OPM as required. Currently, corrective actions have begun, and most are expected to be finalized in September-October 2020 timeframe.

It should be noted that between the 2018 draft inspection results and the 2020 inspection, SEC initiated change that better situated the office to provide a more timely, controlled, and professional security experience that more closely conformed to standards. These actions included reorganizing on-boarding by removing OHR and OC from the process, hiring a third adjudicator, creating written policy and protocols concerning on-boarding, providing on-boarding training for Agency personnel, contracted a new case tracking system, and organized and staffed a new eQIP Office. The eQIP Office completely changed the frontend of the security process by placing the onus of the procedure on SEC, which allowed SEC to ultimately control the process. The new eQIP procedures satisfied several issues to include satisfying the need for an eQIP help desk. The process also limited the number of people who were required to interact with the case and improved submission timelines, and it effectively cut SEC's case submission errors.

Likewise, SEC conducted in-house training programs that were conducted for both SEC and OHR personnel. Concerning SEC personnel, overtime was offered to complete the review of executive orders, federal regulations, policy, and in-house directives if needed when such reviews could not be handled during office hours. Personnel were instructed to read the SEC Directive and some lunch periods were elongated so that unit personnel could speak among themselves concerning security process and even sanctioned games to assist employees with public speaking and security knowledge.

Additionally, SEC provided training for OHR personnel and assisted them with obtaining OPM training concerning Position Designation. SEC also supplied OHR with in-house training related to proper hiring practices to include the use of tentative offers of employment prior to document collection. This and other training proved important, as OHR's actions have significantly affected the results of SNAP inspections (see 2014, 2018, and 2020 SNAP inspection reports). The mentioned OHR training does not include suitability and pre-screening training offered to OHR well before the 2018 and the 2020 inspection processes nor the training for and access to OPM's Central Verification System (CVS).

Unfortunately, OHR was never held accountable for the frontend processes by either the OHR Director, Carrol Cobb, or the OMS Director, Marie Lennon even though SEC had continually asked for their participation. Considering the fact that typical human resource offices, in the executive branch, routinely handle such activities to include pre-screening, suitability, reciprocity checks, and eQIP initiations, this situation led to less than stellar reviews by SNAP inspection personnel.

The lack of enforcement or even acknowledgement of these issues is evidenced by the 2015 emails showing Ms. Cobb's continued failure to even respond to the 2014 SNAP inspection results (emails appended cumulatively as Attachment 25). Mr. Lagerberg's frustration can be seen in his attached handwritten note questioning OHR's inaction. Based on OHR's inactivity, SEC has now undertaken many of OHR responsibilities; however, there are still problems in the hiring process as evidenced in the email, dated March 29, 2019, that explains OHR's inability to correctly collect and transition applicant documents to SEC. As written in the email, this remains an ongoing problem. A copy of the mentioned email is appended to this response as Attachment 26.

Subsection 2i - Assessment of the 2020 SNAP Inspection Report:

The review of the 2020 SNAP Inspection Report ultimately led to several corrective actions for both SEC and OHR/OMS. Upon completion, the corrective action plan will be forwarded to OPM for review and an OPM final report will be produced. The listed recommendations represent only the open and new recommendations provided in the 2020 SNAP Draft Inspection results. The following information was previously developed as part of the corrective action plan:

- 1) Previous Recommendation 2: Rec 2 relates to USAGM ensuring that all covered positions are designated for both risk and sensitivity using OPM's PDS. This recommendation is being handled by OMS/OHR, which proposed the following actions:

USAGM will continue to use the PDS to designate all positions in accordance with 5 CFR 1400. USAGM notes that in OPM's 2018 and 2020 inspections of USAGM's suitability program, OPM reviewed a sample of USAGM position descriptions and position designations and suggested that a number of positions that USAGM designated as non-critical sensitive should have been designated as non-sensitive, high risk public trust. USAGM takes this analysis very seriously. The suggestion that these positions are not sensitive positions is concerning based on USAGM's knowledge of how the incumbents of positions that create, edit, or distribute USAGM's broadcast content have the opportunity to materially, adversely impact the foreign relations of the United States. OHR/OMS will review current position descriptions and position designation records and establish a schedule to continuously review position descriptions to determine if changes in position duties require a change in position description or position designation.

[This response was written by OMS concerning designation issues; however, corrective actions were not mentioned. PDR issues must be eradicated as they now represent the root of the security process. This push and pull between OMS and OPM/ODNI must be immediately corrected by oversight.]

- 2) Previous Recommendation 6: Rec 6 deals with OHR/OMS' need to request the correct level of investigation based on the accurate position designation, per 5 CFR part 1400. SEC will continue to initiate investigations based on the PDR. Additionally, OHR is pursuing an automated, electronic solution to notify SEC whenever a position's sensitivity level changes as the result of redesignation.
- 3) Previous Recommendation 10: Rec 10 deals with the use of 5 CFR 731 criteria when conducting pre-screening responsibilities or when making pre-screening determinations. USAGM currently conducts pre-screening requirements on all cases during the on-boarding phase. As indicated in OPM's 2020 report, The Chief, Personnel Security Division correctly indicated that an adjudicator reviews each case utilizing 5 CFR 731 criteria. Once a review is successfully completed, the case is processed and released for investigation. Concerning the SA's inability to provide clear and accurate information, SEC assigned remedial training for all security assistants engaged in the on-boarding process to include the re-taking of the course "Introduction to Suitability." Lastly, it remains unclear how OPM inspectors were unable to identify personnel responsible for screening activities (as noted in the recommendation) when they were specifically advised of this information by the Chief; however, the process is routinely practiced and utilized by assigned adjudicators.
- 4) Recommendation 11: Rec 11 deals with SEC ensuring that all staff tasked with pre-screening responsibilities receive training and are familiar with the criteria found in 5 CFR 731. As a response to this recommendation, SEC currently utilizes 5 CFR 731 for pre-screening operations. All personnel conducting pre-screening have received training concerning this process. As stated in Recommendation 10, security assistants will immediately participate in additional training. Moreover, SEC has implemented a checklist for all personnel performing pre-screening duties; the accuracy of the pre-screening process will be reviewed on an on-going basis by the CPSD. This checklist is in draft format to be completed in September 2020.
- 5) Previous Recommendation 15: In response to Rec 15, which deals with SEC working with its NBIB/DCSA liaison to obtain access to all appropriate investigation databases, SEC has worked with its liaison and fully recognizes all policies regulating reciprocity determinations as defined within E.O. 13467/13488. However, obtaining certain required checks has proved difficult, as the Department of Defense (DOD) has denied USAGM access to Joint Personnel Adjudication System (JPAS) and access to a Sensitive Compartmented Information Facility (SCIF) is required to access Scattered Castles (SC).

Following OPM's 2018 SNAP inspection, USAGM reached out to both its NBIB/DCSA liaison and numerous other agencies, to include DOD, to obtain access to JPAS and access to a SCIF in order to access SC. USAGM was denied access to JPAS based on DOD basic qualifiers as listed in their JPAS Account Request Procedures under Section 2.4 which reads as follows:

2.4 Non-DoD Government Agencies:

Non-DoD/Other Federal Government agencies should utilize the Office of Personnel Management (OPM) Central Verification System (CVS) for personnel clearance eligibility verifications. OPM CVS contains information on background investigations, credentialing determinations, suitability determinations, and security clearances. OPM's CVS contains a data bridge to JPAS for clearance reciprocity purposes.

It should be noted that USAGM's DCSA liaison concurred with the JPAS finding and recommended continued use of CVS systems for JPAS reciprocity evaluations.

Moreover, SEC has contacted several agencies in attempts to obtain SCIF access. To date, SEC has tentatively agreed to access requirements established by the Health and Human Services Administration (HHS). An MOU has been established and is under review by both USAGM and HHS. Completion of the MOU should occur in August 2020. Moreover, USAGM's SCIF should be operational in November-December 2020 timeframe if Covid-19 restrictions are eased.

- 6) Previous Recommendation 18: Rec 18 indicates that SEC must ensure background investigations are initiated no more than 14 days after the applicant's initial certification of the investigative form. In response, SEC is taking steps to improve timeliness of background investigation initiations. Currently, OPM reports that SEC initiates investigations in an average of 18 days while the standard is 14 days. To correct this issue, SEC intends to add an additional security assistant to assist with processing and eQIP release actions. SEC has selected a new Security Assistant (SA) and awaits the lifting of a hiring freeze to onboard this resource. The selected SA will be assigned to the eQIP Office as oversight and handle the release/review of eQIP applications, thus relieving the responsibilities of this action from the senior physical security specialist currently assigned to this activity. Moreover, SEC has contracted, formatted, and is currently implementing a new case tracking system that will greatly assist with timeline requirements and case management.

It should be noted that the eQIP Office is relatively new process, which was understaffed with inexperienced contracted personnel based on budget concerns. This unit has progressed well since its inception and with the described additions is expected to be fully compliant with OPM policy.

- 7) Previous Recommendation 20: Rec 20, deals with the need that SEC ensures every individual has a favorably adjudicated fingerprint before being issued a PIV credential. It should be noted that SEC was forced to assign and train a senior physical security specialist (SPSS) to conduct fingerprint adjudicative activities and eQIP release following the 2018 SNAP inspection (no additional personnel were assigned based on budget issues). However, the SPSS failed to conduct the assigned checks as instructed and in a timely manner leading to several adjudicative reviews being conducted after the PIV credential was issued. Based on this recommendation, the SPSS was

counseled concerning her ineffective activities and again instructed about HSPD-12 requirements. It should be understood the assigned SPSS is also assigned to initiate and release e-QIP applications and accomplish her assigned duties as a physical security specialist responsible for the Agency's domestic facilities. To correct this situation, SEC will implement new credentialing requirements.

A completed Form IBB-1217 is required for the credentialing process to be finalized. SEC will amend Form IBB-1217 to include a process check-off related to the fingerprint adjudication and eQIP release that will require date, time, initials of the adjudicating/release official, and an affirmative indication that credentialing is authorized. SEC personnel will be trained on the new process for credentialing. This process will be finalized in September 2020.

- 8) Previous Recommendation 24: Rec 24 deals with OPM's requirement that SEC must initiate new investigations for all individuals investigated by USAGM since the expiration of USAGM's delegated investigative authority on December 31, 2012. Based on Recommendations 1 and 24 (Rec 1 deals with transferring all investigative activities to NBIB/DCSA), SEC immediately stopped all investigative activities and began transferring all new and discontinued cases to NBIB for investigation/re-investigation. Ultimately, SEC initiated all cases investigated between 2013 and 2018 for re-investigation (see "Delegated Authority" page 18-19, this response, for additional information).
- 9) Previous Recommendation 25: Rec 25 deals with the requirement the SEC must perform and document a distinct suitability adjudication on every closed investigation. Subsequent to the 2018 SNAP inspection results, USAGM instructed Personnel Security Specialists (adjudicators) to document a suitability adjudication in accordance with 5 CFR 731 on all closed cases. Based on OPM's review of a recent sampling of 34 cases, OPM acknowledged that USAGM was performing this action and documenting findings in accordance with 5 CFR 731. However, the sampling did not provide a sufficient number of cases related to FTEs and therefore OPM would not validate this finding. Although, OPM would not validate this, based on its limited sampling of thirty-four cases, the sampling did indicate that the practice of documenting 5 CFR 731 findings was being accomplished by assigned adjudicative staff. SEC will continue to properly document suitability adjudications and conduct continuous supervisory review of adjudicative findings to verify conformity to this requirement.
- 10) Previous Recommendation 26: Rec 26 is related to the suggestion that SEC consider making arrangements to ensure SEC staff are not responsible for adjudicating their direct-report employees' investigations. As a result of the 2018 OPM report, USAGM reached out to seven other agencies to perform adjudications for all SEC staff. Due to either staffing shortages and a lack of operational capacity, none of the initial agencies queried agreed to take on the responsibility. However, in July 2020, the General Services Administration (GSA) agreed to handle SEC adjudications. USAGM and GSA drafted an inter-agency agreement (IAA) to address this recommendation in August 2020. The IAA awaits CEO approval. Going forward under the IAA, GSA will conduct investigations and adjudications of all SEC staff.

11) Previous Recommendation 27: Rec 27 relates that SEC must report all suitability determinations to OPM as soon as possible, and in no event later than 90 days after receipt of the final report of investigation. Based on this requirement, SEC will correct any timeliness issues concerning adjudicative closure reporting. It should be noted that SEC conducted a search to identify the 349 unreported adjudications, as noted in the 2020 SNAP report (page 56). The search actually yielded 351 cases that were immediately reviewed for process. Of the 351 cases identified, 48 previously adjudicated cases required the entry of an adjudicative finding in the Central Verification System (CVS). Of the 303 remaining cases, 213 were discontinued investigations (related to the discontinued cases associated with the case transition to NBIB/DCSA) and 90 investigations were related to retired personnel. Additional adjudicative action was not required related to the 303 cases described above. It should be noted that per SEC's request, the DCSA liaison ran a report of suitability adjudications for the period February 1, 2019 to January 31, 2020 and found the average time to adjudication was 29 days. Although this meets standards, SEC proposes to perform the following corrective actions concerning adjudicative closures:

- a. SEC has contracted a new case tracking system that will assist in monitoring the reporting timeliness of adjudication determinations. The system will be operational in September 2020.
- b. SEC anticipates the hiring of a fourth adjudicator, which will increase the productivity of the unit and allow for more timely reporting of adjudicative determinations (hiring process is dependent on USAGM's ability to maintain delegated authority).
- c. An adjudicative Team Lead will be designated and assume responsibility for timeliness, process review, and other aspects of the adjudicative process.
- d. SEC has mandated a process change that requires all adjudicators to record an adjudicative finding at the time of the case closure.

12) Previous Recommendation 28: Rec 28 is related to the requirement that SEC request the required background investigation on any USAGM appointee or employee where a record of investigation cannot be verified. In response to this recommendation, SEC immediately initiated an investigative process on each of the identified individuals not already under investigation.

More specifically, the six individuals mentioned within the 2020 SNAP Report as having not been properly vetted have either completed an investigation or are currently under investigation. Based on this situation and others reasons, USAGM has reformed its on-boarding process to prevent like situations in the future. These changes include a more refined on-boarding, pre-screening, and credentialing process.

An investigation into this situation revealed that an OPM inspector provided a handwritten list of personnel requiring review to the CPSD, with the expectation of having them reviewed and initiated for investigation, if required. Unfortunately, the list was temporarily misplaced and corrective actions, beyond those previously taken, were

not conducted in a timely manner. The CPSD was counseled regarding her actions and instructed to immediately conduct appropriate corrective actions once issues are reported.

- 13) Previous Recommendation 30: Rec 30 deals with the security of space containing sensitive information, including investigative and adjudicative information, and accessibility to such information without a need to know. In response to this issue, related to the 2018 SNAP report, SEC immediately set new policies related to limiting communications devices, locking office doors and desks, and placing proper signage near SEC's secured and alarmed file room. Access to the file room, which is staffed throughout the day, was restricted to SEC personnel only, as all SEC personnel require admittance to the space to access files, ClassNet, and physical security files stored within that area. All personnel are cleared at the required level for entry to this area, and it was believed that this satisfied the recommendation.

Based on the 2020 SNAP Inspection Report, additional precautions were put in place that limit access to the file room to only personnel working within the Personnel Security Division process. All other personnel, to include physical security, counterintelligence, and Insider Threat requiring access will be escorted while within this area. All visitors will be required to sign-in and out on a facility log when accessing the secured file room. The SEC escort will verify the period and reason for the visit on the facility log. Moreover, all unclassified physical security files may be relocated, space permitting.

- 14) Previous Recommendation 31: Rec 31 deals with the updating of policies and implementing immediate measures to ensure PII and sensitive and/or classified information will not be compromised. In response to this issue, SEC immediately reviewed the findings associated with the 2018 SNAP inspection results and found that at the time the inspection occurred (both draft and final copy) OPM's only issues regarding personnel accessing the file room were based on issues with reported adjudications of personnel and "a need to know." In fact OPM stated in October 2018 SNAP Draft Report, "While all OS [Office of Security] Staff has the appropriate level of investigation to access this information, not all staff has a favorably adjudicated investigation and therefore may not be eligible to access these files." A review of all adjudications related to SEC personnel revealed that all adjudications had been properly closed, which means that all SEC personnel were cleared for access to classified material at the level stored within the file room (up to secret). Concerning a need to know, see Recommendation 30.

In contrast, the 2020 SNAP Inspection Report now suggests, "However, OPM data reflects 9 of PSD's staff members were investigated by USAGM after the expiration of USAGM's delegated authority and have not had new investigations initiated with DCSA. These employees have not been properly investigated or adjudicated and may not be eligible to access the files within PSD's file room." OPM does not have the authority to cancel or rescind security clearances, as mentioned in Allegation 1 of this response (see page 23). EO 13467, as amended, assigns oversight of all sensitive

positions to ODNI, which has neither revoked, invalidated, or rescinded any clearance issued by USAGM/BBG nor has it rescinded the authority of USAGM employees from holding a sensitive position. It should also be noted that all but two members of SEC have been subjected to a periodic reinvestigation conducted by DCSA in 2019 or 2020. The DCSA investigations of the two mentioned personnel are ongoing.

- 15) Previous Recommendation 33: Rec 33, deals with SEC's adjudicative staff's capabilities to demonstrate a sufficient knowledge and understanding of suitability adjudications requirements and criteria. In response, SEC maintains that all adjudicators have been trained per National Training Standards, as recognized by OPM (see Closed Recommendation 32 of 2020 SNAP Report). Prior to the 2020 SNAP inspection, adjudicators were required to review all policies and directives as well as discuss process and procedures. This on top of the fact that most assigned adjudicators have 20 years or more of experience, it was assumed that participating in a cogent discussion about their work would not be an issue. Based on their inability to express themselves appropriately, all adjudicators have been assigned remedial training, which was completed in August 2020, unless otherwise noted. The remedial training included the following:
- a) Introduction to Personnel Security PS113.16
 - b) Introduction to DoD HSPD-12 CAC Credentialing PS112.16
 - c) Introduction to DoD Personnel Security Adjudication PS001.18 (pending course availability)
 - d) Introduction to Suitability Adjudications for the DoD PS010.16 Introduction to National Security Adjudications PS170.16
 - e) Communication/Comprehension Training on USAGM's AgLearn
- The CPSD will monitor this and other adjudicative issues.
- 16) Previous Recommendation 34: Rec 34 deals with SEC's responsibilities related to ensuring personnel who perform adjudicative work maintain a favorable determination. As previously stated in this response, it appears OPM recognized security clearances issued by BBG/USAGM in 2015, 2017, and 2018; however, in 2020 they now question the legitimacy of SEC clearances (reference Rec 34). As stated in EO 13467, as amended, oversight of security clearances and investigations conducted for that purpose are within the domain of the ODNI. To my knowledge, ODNI has not rescinded or invalidated any USAGM clearance and therefore Rec 31, in its current state, is not actionable and should not be included in the recommendations list. Moreover, security investigations of all SEC staff have been updated or are being updated (two cases remain open) at the appropriate level by the DCSA.
- 17) Previous Recommendation 35: Concerning Rec 35, which deals with ensuring that all manuals, forms, directives, and policies that govern its personnel suitability operations are in compliance with all applicable E.O.s, OPM requirements, and current investigative products, SEC has reviewed its Personnel Security Directive and forms to determine compliance with existing EO's and policies that govern its personnel suitability operations. Based on the review, SEC has removed its financial disclosure

form from inventory. SEC is currently re-writing its policy concerning HSPD-12/FIPS201 and expects that it will be complete in October 2020.

It should be noted that most of the issues identified within the security directive dealt with investigative responsibilities tied to delegated authority. At the time of the 2020 inspection, SEC fully intended to renew its delegated investigative authority with OPM and therefore did not change related information within the directive. Since the 2020 SNAP inspection, SEC has removed portions of the directive that deal with delegated authority and has corrected other identified material.

- 18) Previous Recommendation 36: Regarding Rec 36, which deals with ensuring security and suitability staff operate in accordance with all SOPs and written guidelines, SEC currently requires conformity of all staff members to related EOs, federal regulations, and community policies. SEC staff understands the principles of the security process and comply to them on a day-to-day basis. In regard to the PSD, SEC personnel are well aware of the unit's status with OPM and have evolved their processes as required to meet position requirements. SEC personnel will continue to perform their work in accordance with EOs, federal regulations, community policies, and the security directive.
- 19) Previous Recommendation 37: Concerning Rec 37, which addresses the collection of information for background investigations which goes beyond the scope of the Federal Investigative Standards, SEC has discontinued the collection of all items (i.e. photocopies of identifications and financial statements) that go beyond the scope of the Federal Investigative Standards. SEC will review case files and properly dispose of all improperly collected material. SEC expects this process to be finalized in November-December 2020; however, issues related to Covid-19 restrictions and personnel shortages may push back the proposed completion date.
- 20) New Recommendation A: New Rec A deals with the elimination of all duplicate investigation requests. Per OPM, SEC has a duplicate request percentage of 2.65% for the period studied. OPM assumes this issue occurred based on a failure to follow reciprocity requirements; however, SEC believes that this issue was caused due to poor informational exchange between OHR and SEC and inexperience related to personnel utilizing the PDS. These processes will improve with time and oversight. Additionally, SEC has invested in a new case tracking system that will assist SEC with personnel security operations. The new case tracking system will assist in the elimination of duplicate investigation requests by separating out roles and permissions in the system and allowing each investigation to be tracked and monitored.
- 22) New Recommendation B: Rec B deals with the establishment and implementation of processes to reduce the unacceptable submission rate for investigation requests to 5% or less. It should be noted that SEC established an eQIP Office that is assigned to handle the front-end of the personnel security process in late 2018. The team conducts e-QIP initiations, e-QIP reviews, and related functions. SEC believes that the high ratio of returned cases can be attributed to the relative inexperience of the staffing element, understaffing, and the overall workload currently being handled by the office at the

time. It should be noted that SEC transferred its receptionist to assist, as no other assistance was approved.

Currently the two fulltime contractors working within the eQIP Office are handling the process; however, it is evident that additional resources are needed to handle the workflow. Additional personnel have been requested but never approved. SEC believes that the problem with submissions errors has improved and based on this belief, SEC requested that our DCSA liaison run an error submission report. The report showed that from January to August 2020, SEC transmitted 1035 cases with an unacceptable ratio of 3.86%. The current error ratio is within OPM standards.

- 23) New Recommendation C: Regarding New Rec C, which relates to the development of a mechanism to track PIV expiration dates, SEC has created a process to conduct monthly checks of the associated data system to monitor PIV expiration and to provide notification. This process will assist in the coordination of the PIV renewal process and assist in continued accessibility of personnel to facilities and systems.
- 24) New Recommendation D: USAGM must update their PIV issuance process to identify staff responsible for uploading credentialing determinations into CVS. The PIV issuance process will be revised during the overall update of all SEC directives and policies mentioned in USAGM's response to Recommendation 35. The manual will mandate that the assigned Physical Security Specialist (PSS) will record the issuance of all PIV cards and the investigative basis for issuance in the Central Verification System (CVS). The process to update security directives and policies has begun and will be completed by October 2020.
- 25) New Recommendation E: New Rec E deals with the issuance of a "Please Call" notice on all investigations conducted by SEC between 2013 and 2018. SEC contacted its DCSA liaison and requested assistance with adding the "Please Call" identifier on all associated investigations, as SEC is not able to actuate this function. The liaison, after making technical inquiries, advised that neither SEC nor DCSA can accomplish this process, as their systems will not permit the change.
- 26) New Recommendation F: New Rec F, which deals with the reporting of pending adjudications and the discontinuance of any investigations USAGM conducted after the expiration of their delegated investigative authority, SEC has discontinued all active cases and has reinitiated them as new investigations utilizing the services of DCSA. This process of discontinuing active cases was completed in June 2019.

Subsection 2j - SNAP Inspection Conclusion:

At the time of this writing, the 2020 OPM SNAP Report has been reviewed and the aforementioned information, or a like product, should be forwarded to OPM as a response to their draft report. It should be noted that numerous projects are underway to remedy every recommendation. Ultimately this process will lead to the issuance of a final report by OPM.

Subsection 2k - Allegation 2 Close:

Unfortunately, the current administration was not in place when I literally begged for personnel and other resources to correct many of these issues currently plaguing SEC/USAGM? Herein lies the reasoning for many of the problems currently being experienced by SEC and the Agency. No one cared to look and when they finally did, even their recommendations were ignored or rationed to the point of meaning nothing (see OMS response to CEO order).

I have spent several years explaining to senior leadership the difficulties SEC has had related to Agency security process. In fact, the first time I met with Diane Cullo, Deputy Chief of Staff, I brought this topic up and overtly indicated a need for change concerning the organizational structure pertaining to whom SEC reported within the Agency. She immediately recognized the issue after listening to my concerns about OMS and reviewing an organizational flowchart. During the same conversation, Ms. Cullo was subsequently provided with a personnel flowchart, which represented SEC staffing, to which she immediately stated, "Where's the second page?" At that point, I knew she understood the issues and I knew that this administration would assist SEC with becoming what it should have been, a fully functional, compliant, and autonomous unit. I still do.

Concerning the allegation that I failed to act regarding the cited SNAP Inspection reports is not accurate and certainly not supported by the evidence found within the aforementioned assessments or the SNAP Inspection Reports. Each recommendation was acted upon and corrective action was taken, with special attention to the recommendations within my realm of responsibilities (see 2014 SNAP assessment).

As the Director of Security, I manage and advocate for the unit while providing needed training and other resources necessary for completing the mission. To successfully complete these responsibilities, I must rely upon my daily interaction with staff along with subordinate managers within the unit who oversee the finer points of the process and coordinate the actual activities. At this point, I believe in my staff and therefore take responsibility for issues related to their performance; however, I will not take responsibility for issues related to oversight errors, staffing shortages, budget limitations, and issues related to the security process that are outside of my area of responsibility. I believe that SEC, more specifically, the Personnel Security Division, stands ready to shift the program to better conform with security community policies while acting in a more reliable, productive, and constructive manner, but oversight must assist with this process and allow for growth within the unit.

Concerning the Agency's allegation, "U.S. national security interests have been severely jeopardized at USAGM," there is no statement made in the source information provided that supports this claim. After a full review of the exhibits, Mr. Michael Rigas, Acting Director OPM, wrote in the cover letter of the 2020 SNAP (Draft) Inspection Report (page 1) a statement which most closely conforms to this declaration which reads, "The reviews identify any [sic] deficiencies which may negatively impact the efficiency or integrity of the Federal service or are

inconsistent with or may weaken the interests in National Security.” However, no specific national security issues or inefficiencies of the Federal service were specifically identified or even intimated. With that being said, I understand the context of the statement and therefore take Mr. Rigas’ statement very seriously, as I continue to reform SEC process to full compliance with oversight requirements. It should be noted, however, that the process has been complicated by OMS continually waylaying the program at every turn. Be it 5 CFR 1400, redelegation of investigative authority, staffing limitations, insufficient budgets, and an overall failure to reach-out of the OMS bubble and request assistance to right the ship (see Allegation 4 for information concerning ORM information).

I stand ready to make the necessary corrections to move this process to full compliance and I look forward to working with senior leadership, OPM, and ODNI to make this happen. I remain fully engaged with SEC process and guarantee success provided the office is properly supported by leadership.

Subsection 3 - Allegation 3:

You knowingly and willfully granted eligibility for, or allowed access to, classified information in violation of the law and its implementing regulations.

- a. See Office of Personnel Management (OPM) reports, Appendix B

Response:

I have never knowingly or willfully granted eligibility for, or allowed access to classified information, in violation of the law and its implementing regulations nor is it alleged that I did in any material associated with Appendix B or any other exhibit provided as supporting documents. A review of Appendix B material reveals that the Agency has apparently based this allegation on information contained in cover letters and SNAP Inspection results dated July 2020 (2020), August 2019 (2018), August 2017 (2014), and an OPM memorandum, dated March 2, 2012.

A thorough review of the aforementioned documents revealed no evidence of any kind that supports the allegation that I have ever violated any provision concerning the issuance of security clearances or in regard to allowing access to classified material in violation of any law, regulation, or policy (see Response, Allegation 1, for additional information). However, the following allegations were made concerning security issues within the identified SNAP inspection reports:

- 1) In the October 22, 2018 SNAP Draft Inspection Report (not included in USAGM's exhibits) the inspection team reported, "OS [Office of Security] staff store background investigations, employee security files, and Secret information in "open" storage within the OS file room (during our onsite activities, we identified files marked Secret on top of cabinets within the room). While all OS staff has the appropriate level of investigation to access this information, not all staff has a favorable adjudicated investigation and therefore may not be eligible to access these files." The report continues, "During our onsite activities OS staff provided the review team files containing Secret and Top-Secret information without verifying all inspection staff was appropriately cleared to view such information." The aforementioned statements were modified but essentially maintained in the August 2019 Final SNAP Report and repeated in the 2020 SNAP Inspection Report.
- 2) Access issues to SEC's secured storage facility were identified in the 2018 Final SNAP Inspection Report (2019) and repeated verbatim in the 2020 Draft SNAP Inspection Report. SNAP inspectors wrote, "However, during the latest follow-up activities a PSD [Personnel Security Division] Security Specialist told us all while not all PSD employees have a need to access the file room, all PSD employees have access."

Responding to issue 1:

SEC did not possess Top Secret material at the time of the 2018 SNAP inspection. Therefore, Top-Secret material could not have been reviewed in any security file examined by the inspection team. This point of contention was brought to the attention of the inspection team and led to the removal of that allegation from the 2018 Final SNAP Inspection Report. It, however, brings into question the overall integrity of the inspections and the inspection reports, as making an allegation concerning Top Secret material represents a tremendous error in reporting.

Regarding the failure of my staff to conduct checks of all inspectors to determine whether they were properly cleared for access to classified material at the Secret level amounted to an unacceptable security infraction. Although OPM inspectors do not claim that a security breach occurred, this type of incident will not be tolerated. Therefore, my staff was immediately counseled regarding proper procedures for allowing access to classified material and the requirements associated with this activity, as prescribed in Executive Order 13526. This action has not since been repeated.

The inspection team noted that all SEC personnel, having access to the secured storage room, were investigated at the proper level; however, not all staff had a favorable adjudicated investigation, as adjudicative personnel failed to post the required adjudicative notice (79a) in the Central Verification System (CVS) used by OPM to monitor security process. Once this issue was discovered, SEC adjudicators immediately reviewed associated CVS records and made appropriate adjustments within the CVS system, hence correcting the issue. It should be noted that adjudicative staff were counseled regarding their failure to properly close adjudicative process within the CVS system. Moreover, all SEC personnel held and/or hold the proper clearance for access to the file room.

Based on the allegation that classified material was stored in open view within a secured facility, SEC immediately corrected the issue by filing all classified material in appropriate storage containers.

Responding to issue 2:

The SNAP reports do not note that SEC's secure file room, which is approved for storage of material classified at Secret or below, is a locked and alarmed facility that remains staffed during business hours. The storage space is located within the SEC suite, which is a restricted area that remains secure, requires authorization for entry, and is alarmed. Access to the storage room is restricted to SEC personnel only, or non-SEC personnel visiting while under escort. All SEC personnel are cleared at Secret or above and require access to the space, as the space is utilized to store and/or protect personnel security investigative files, sensitive physical security files, and USAGM's ClassNet Terminal.

Based on 2018 SNAP report, additional security protocols were put in place to enhance SEC's storage area and office space. Concerning the storage area, enhanced restrictions of communication devices (lockable phone container installed), storage requirements for classified and sensitive information were initiated, new protocols for escorting of visitors to the site were initiated, and signage was placed for informational purposes. Likewise, a barrier was placed in the main hall of the SEC office complex, which further restricted access to the office space and provided additional protection against unescorted entry of uncleared personnel into the suite and/or the storage facility. A construction project was undertaken to provide space for the e-QIP Office and make available space for access control to the SEC office suite. Likewise, new protocols were put in place to require the locking of all offices and safes upon personnel exiting the area.

With the aforementioned corrections complete, the 2020 SNAP inspection report read exactly the same as the 2018 SNAP report, which indicated that the information was cut and pasted to the new report without taking into consideration the security enhancements. Nevertheless, in an attempt to satisfy inspection personnel, SEC has since restricted access to SEC's storage facility to only personnel assigned to or working on personnel security operations. This change should close related open recommendations.

Based on my review of all supporting information contained in Appendix B of the notification package, I reiterate that I have never knowingly or willfully granted eligibility for, or allowed access to classified information, in violation of the law and its implementing regulations. Moreover, I properly corrected all transgressions in this area of concern. This charge remains baseless and unsupported (please see Allegation 1, page 23, for additional information concerning access and security clearances).

Subsection 4 - Allegation 4:

The Office of Risk Management has identified you, in your capacity as Director of the Office of Security, as having substantial involvement to creating risk within the agency.

- a. See the relevant profile drafted by ORM, Appendix D

Response:

The basis for this charge is identified as information contained in Appendix D of the CEO notification package, which is made-up of a 2019 Office of Risk Management (ORM) risk assessment report and a subjectively written supplemental document that appears to describe my actions in relation to SNAP assessment results. The supplemental document also provides an assessment of an email thread I shared with the Chief Risk Officer, Nnake Nweke. Although the author of the supplemental information is not named nor is the date of the document identified, I will proceed with my response under the assumption that Mr. Nweke wrote the missive.

I have never been personally identified or named as having substantial involvement in creating risk within the agency nor as a risk owner. However, the Office of Security was identified as presenting a risk to Agency operations in a 2019 Office of Risk Management (ORM) risk analysis report. The report also identified risk issues related to other Agency offices or functions that were identified by risk owners, to include the Deputy Director of Operations (5 risk factors), OMS Director (3 risk factors), Chief Information Officer (2 risk factors), Chief Strategy Officer (1 risk factor), Congressional Affairs Director (1 risk factors), and the Chief Financial Officer (1 risk factor). The ORM risk statement associated with SEC's assessment reads as follows:

"The security office's delegated investigative authority from OPM expired in 2012; therefore, USAGM was not acting under proper delegated authority when it acted as its own investigative service provider in 2013 and after. This gap in delegated authority, as well as USAGM's lack of access to intelligence records and outdated processes, created a backlog in security investigations and numerous deficiencies (as identified in OPM's and ODNI's 2018 program review of USAGM's personnel suitability program) that could jeopardize the integrity and efficiency of USAGM's personnel vetting program."

The 2019 ORM risk assessment report accurately indicates that the 2018 SNAP Inspection report did identify several SEC deficiencies and the fact that USAGM's delegated investigative authority had expired; however, it did not begin to identify the actual risk issues associated with the SNAP inspection findings or the loss of delegated authority. Also problematic was the fact that Ms. Hodge, who I assigned to this process, was unaware that SNAP information would be utilized within the risk assessment. That along with the fact that neither Ms. Hodge nor I were ever asked to comment on the information, in my opinion, led to a less than accurate ORM report.



Based on my assessment of the ORM report, I opened an email dialog with Mr. Nweke to inform him that I took exception to the assessment written about SEC and questioned the overall risk assessment provided SEC. As can be seen in Appendix D, my emails identify my concerns related to the ORM process and indicate that corrections to the ORM report were warranted. Several issues that were apparently not considered by the ORM were brought to Mr. Nweke's attention that included the Agency's failure to properly staff SEC, senior managements continued failure to comply with 5 CFR 1400, and issues related to backlogged case work. The emails also countered statements related to SEC having "acted as its own investigative service provider," SEC's inability to access intelligence records, or that the actual transfer of SEC's investigative authority to the National Background Investigation Bureau (NBIB) represented a risk to the agency. Also brought to Mr. Nweke's attention was the fact that the Office of Security is made-up of several units that apparently presented no risk to the overall Agency. This factor should have been weighed when assessing SEC.

In the end, the email thread was handled in a professional manner, without "expressing anger," (as was subjectively noted in the supplemental document), and provided operational topics that led to issues within SEC and created the true risk factors that should be addressed in the ORM report. It was my hope that the information I provided to Mr. Nweke would help him move his program forward and assists him with providing a more factual and actionable report by reaching out to members active within the problem areas for risk verification and comment. By not conducting investigative activities to assist with the verification or mitigation of an issue creates less than a credible picture in the end. Concerning Mr. Nweke's failure to further investigate SEC's issues, I wrote, "I can only assume that you keyed on the issue when the SNAP inspection report was released without additional investigation or discussion into the matter. If that is the case, your findings are completely reliant on an OPM DRAFT report that was without Agency critique or review... You basically set risk based on raw data without comment." Ultimately this was my concern about the report that I had hoped to correct with the email exchange.



In regard to Mr. Nweke's recommendation that the Office of the CEO evaluate my ability and competency to lead the Office of Security, I would simply say that I would relish an opportunity to discuss issues associated with the Personnel Security Division's operational shortcomings with senior leadership. Many issues facing SEC can be attributed to just that, a lack of communication between SEC and senior leadership. This void has continually obstructed SEC's ability to obtain resources that might otherwise correct associated issues as identified in the SNAP program. The lack of communication has also obstructed information flow to the CEO level concerning counterintelligence, Insider Threat, and Personnel Security issues. With that being said, I do not, however, understand how those shortcomings reflect on my security clearance nor do I understand other assertions contained within the supplemental document.

Mr. Nweke also wrote in the supplemental document, "Notwithstanding, the risk assignment to Marie, Drew as the Director of Security, was directly responsible for addressing OPM's

recommendations. However, it did not appear, from his opposition to the inclusion of the risk on the ORM profile that he neither understood nor appreciated the enormity of the risk to the mission of the Agency, its personnel and indeed to national security.” If Mr. Nweke would take the time to investigate his claims, he would not have made this assertion. This statement is subjective and unsupported and does not consider the following issues:

- 1) I was never officially provided with a copy of the 2018-2019 ORM report, as the copy I received came from a subordinate, which brings into question my perceived responsibilities.
- 2) I never discussed this report with the OMS Director, Marie Lennon, nor did she ever bring it to my attention.
- 3) Marie Lennon chose to allow OMS, to include Chris Lauer and Daniel Rosenholtz, to represent SEC in risk mitigation efforts associated with SEC operations (see Exhibit B or Appendix D).
- 4) I was never advised of risk mitigation activities, asked to attend a risk mitigation meeting, nor was I asked for my input related to apparent ongoing mitigation actions.

To say, “ However, it did not appear, from his opposition to the inclusion of the risk on the ERM profile, that he neither understood nor appreciated the enormity of the risk to the mission of the Agency, its personnel and indeed to national security,” is disingenuous at best. I perfectly understood the issues that SEC faced and worked hard to correct each issue, as discussed earlier in this response. To name a few things accomplished following the 2018 SNAP inspection were the development and staffing of a e-QIP Office, SEC assuming OHR and OC’s responsibilities concerning onboarding, development of a SEC Directive (previous edition was written in 1999), conducted training programs for all staff members and OHR, credentialing processes changes, adjudicative processing changes, physical security policy changes and many more (see 2018 SNAP response). Bottom line, I in no way evaded my responsibilities regarding SEC operations nor did I ever oppose the inclusion of SEC within the ORM report. I merely provided the ORM manager with more accurate information about issues that led to the risk assessment.

The ORM report and the related mitigation process serve as interesting examples of how the Agency continually ignored actionable mission critical issues involving SEC and how OMS continually mismanaged SEC or issues related to SEC. For example, Mr. Nweke was directly advised of information concerning risk factors related to SEC and chose to ignore them and by doing so provided a less than candid assessment of the Personnel Security Division (SEC). His inaction failed to disclose the issues which ultimately slowed the process of change. Likewise, the fact that OMS failed to notify SEC about the ORM report, ORM mitigation process, or any other related process allowed them to assume full responsibility and in doing so allowed them to control the disclosure of factors that led to the SNAP recommendations, hence not exposing their failures in relation to SEC operations. This example also reinforces my earlier assertion

that the OMS Director continually micromanaged SEC operations and refused to allow SEC to operate with the independence necessary to accomplish its mission.

As previously stated, I have never been personally identified by the Office of Risk Management (ORM) as having substantial involvement in creating risk within the agency. The ORM report repeats SNAP inspection report material related to SEC and narrows that information into risk factors for the agency. This allegation is baseless and unsupported.

SECTION VI - Overall Conclusions:

Having provided information and guidance on SEC's history, management, and each SNAP report from 2014 forward, the question comes to mind, how did SEC, or more specifically, the Personnel Security Division, get to this point? The answer involves a failure to staff, finance, and properly oversee the Office of Security. Since 1999, SEC has experienced issues with accomplishing its mission successfully and what was the Agency's response, there wasn't one. SEC managers continued to push for change that continually fell on deaf ears. Ultimately, they did what was necessary to move the work along until they turned the reins over to the next group headed toward mediocrity.

When I interviewed for the position of director, I literally stated to the USAGM's Deputy Director that I would not ride this job into retirement, as I had seen done so many times before. With that being said, however, the former directors' inaction or indifference was not attributable to laziness or incompetence, but instead to the pitfalls of working within an office that was considered a speedbump for VOA personnel to traverse before entering service (a former director provided me with that analogy in 2005). I, nevertheless, strove to be different while providing Agency personnel, along with anyone else who would listen, with the necessary information concerning resources with the hope that SEC became more productive and successful.

Throughout my tenure as director, I have stayed engaged with each element of the office to include Personnel Security, Physical Security, Insider Threat, and Counterintelligence. Most days I worked nine, ten, or eleven hours just trying to get things right and establish programs that were up to date, that complied with current oversight requirements, and that worked. Each program was documented, as most were not throughout my career with BBG/USAGM, to make sure that the foundational elements were passed to the next group of inspectors, investigators, adjudicators, and all other SEC employees. Whether it dealt with producing a Personnel Security Directive; rewriting the inspection protocols for the overseas inspection program; fully implementing the Insider Threat Program, which is now certified by the National Insider Threat Task Force (NITTF) and staffed by an NITTF trained and certified manager; or initiating a Counterintelligence Program, managed by an FBI trained and certified analyst, that is now recognized by the National Counterintelligence and Security Center (NCSC), National Security Agency (NSA), and the Federal Bureau of Investigation (FBI), I did my best and inspired my employees to do the same.

Moreover, I weeded out the poor performers within SEC (Insider Threat Manager, FTE Security Assistant, and a Contracted Security Assistant were all removed) and brought in people who were positive, productive, intelligent, and tenacious. Folks that mixed well with the existing staff and who boosted the energy levels within the office as we moved forward understaffed and underfunded.

As the Director of Security, I developed programs or relationships that assisted SEC and the Agency while questioning active operations that others had previously ignored. More specifically, I shutdown TSI's process of routinely allowing access to USAGM data-systems without first clearing the personnel and subsequently opened talks with the CIO to move their programs forward in tandem with security requirements with the intent of better serving and securing the Agency. SEC and TSI now coordinate the issuance of data access and are currently working together in the development of a kiosk platform to develop logical access programs within the Agency. I was also able to secure funding for a well needed personnel security case tracking system that will enhance USAGM's ability to conduct personnel security investigations. The new case tracking system will streamline many issues in the process and allow direct connectivity between SEC and DCSA. It is expected that the new system will remedy many frontend and adjudicative issues that have continually plagued SEC.

Additionally, I have developed relationships with the FBI (Washington and Miami), NSA, CIA, ODNI, and the State Department that have assisted SEC with personnel security investigations, counterintelligence investigations, Insider Threat inquiries, facility inspections, and assisted with the connectivity of the Agency's SCIF, which will be operational in the near future. Furthermore, I developed contractual agreements with companies like US MAX, which has assisted SEC with the development of its physical security programs and made the process of fully refurbishing overseas transmitter sites a reality. The proposed security refurbishments will better protect Agency personnel, facilities, and the overall mission.

The following excerpt was taken from my 2018-2019 annual evaluation which better explains many of the programs I have developed:

"Mr. Jansen initiated and solidified contracts with contemporaries at key foreign affairs and intelligence agencies and became a regular attendee and participant at applicable seminars and work groups. Information derived from these sources was utilized to fortify overseas facility inspection programs as well as exchange counterintelligence and counterterrorism information. Mr. Jansen made numerous contacts with State regional security personnel to establish the connection and obtain threat assessment information. He also participated in several overseas/domestic facility inspections (Sao Tome, Korea , Miami, etc.) and provided insight to improve the process; communicated with assigned personnel to determine their needs and issues; established a security inspection schedule to assess overseas facilities; and estimated budgetary requirements related to improvements of transmitter sites and bureau facilities security upgrades.

Mr. Jansen also initiated a Counterintelligence Program (CIP) after recognizing the need for compartmentalizing and analyzing related information. While the Office of Security has performed CI activities in the past, no program was instituted, no specialized networking was permitted, and only minimal training was provided. Based on the mission and associated personnel at USAGM, several IC related agencies were contacted, and discussions opened regarding the need and the path to a successful CIP.

These contacts inspired further interaction with the Office of the Director of National Intelligence (ODNI) which has now teamed with USAGM to assist with the development of Agency's program."

I was rated as Highly Successful in my annual assessment based on my overall performance and the programs I developed or enhanced throughout the year. A copy of the evaluation is appended for review as Attachment 27.

In addition to the aforementioned actions, I supplemented the Agency's existing personnel security program by instituting two agreements with the DCSA and the FBI, respectively. The first program, Continuous Evaluation (CE), which is operated by DCSA, processes personnel through a batch of security checks on an annual basis. The second program, Rap Back (Record of Arrest and Prosecution Background), is offered by the FBI and provides continuous monitoring of criminal and prosecutorial records of personnel throughout the year. Both programs provide up-to-date information based on the timelines mentioned. In the future, SEC will replace CE with an ODNI program, Continuous Vetting (CV), once USAGM's SCIF is actuated. CV will monitor the credit, criminal, travel, and other activities of personnel holding sensitive positions in real time and provide timely notifications. Each of these programs provide an extra layer of security for SEC's personnel security processes.

Furthermore, I instituted several in-house programs to include the initiation of OpenNet and ClassNet programming, developed active shooter briefings, and online Agency wide SEAD 3 training program. SEAD 3 training is associated with ODNI's mandatory reporting requirements of personnel holding sensitive positions/security clearances.

Having described many of the successful programs currently in operation within SEC, one may be inclined to ask how the personnel security program (PSP) was identified by oversight as needing significant improvements. The answer is that PSP has continually struggled based on improper staffing and budget. This was certainly not the way it should have been, but this is the way it was until the security community began to institute and enforce requirements to include reciprocity, sensitivity/risk designation, and other actions that required succinct conformity to a system that SEC could not work within without operational change and senior leadership assistance. However, when asked for additional resources, senior leadership declared budget issues and then diverted resources to "mission essential" positions in VOA or other factions within BBG/USAGM. Failing to garner the needed assistance, and with the spotlight on the PSP based on 5 CFR 1400 and delegated authority, the PSP again stumbled. Sounds strange but it is true, as my response mentions on several occasions.

In 2014 and again in 2017, it was evident that SEC needed to either properly staff the Personnel Security Division or allow for the transition of all investigative activities to the OPM/NBIB. Even Lisa Loss, Director, Suitability Executive Agent Programs, identified the staffing issue when we finally spoke and to my knowledge Ms. Loss had never personally interacted with SEC personnel. Discussions were had between 2015 and 2018, which led to many unfulfilled

promises from OMS. By the time the 2018 SNAP inspection team arrived it was far too late to even consider keeping the Investigations Branch engaged, even though SEC continued to receive grandiose promises of staffing relief from OMS/USAGM that, to date, have never materialized. Ultimately the decision was made by OPM to transition all SEC investigative activities to OPM/NBIB, which was accomplished seamlessly in a timely manner.

OPM has played a progressively larger role in the ultimate transition of SEC's PSP. In fact, OPM has written increasingly critical recommendations in their effort to assist and drive USAGM to develop a compliant PSP; however, when SEC has attempted to obtain additional guidance or assistance through the Suitability Executive Agent Programs' office they have failed to return calls, emails, or direct telephonic messaging. For example, assistance was sought concerning the updating of the Agency's delegated investigative authority (2017-2018) which led to months of silence and inaction on the part of OPM. Subsequent to the issuance of the 2018 SNAP Draft Inspection Report, an email was sent to Lisa Loss requesting her assistance with the development of SEC's program, which was never answered (the email is appended as Attachment 28). Following the 2020 SNAP Draft Inspection Report, numerous calls were made to OPM SNAP team members for clarification of certain issues with no response ever provided.

The aforementioned factors coupled with the fact that OPM has yet to respond to three USAGM requests brings into question just how helpful they actually are. Overall, their inspections are appreciated, as they provide guidance, but their failure to provide supplemental assistance has been both detrimental to the PSP and brings into question whether they are accomplishing the goals of their own program. Nonetheless, I am happy to see that OPM is currently engaged with our processes, and I look forward to working with them to move the program forward.

In the end, I find my security clearance and my career in jeopardy based on the findings of OPM SNAP inspection reports and an Office of Risk Management informational statement. An interesting position since I have done nothing but try to build the security programs within USAGM. Furthermore, I have never received any official derogatory performance or behavioral write-ups, to include security infractions/violations. More importantly, my security clearance has never been questioned in the 19 years I have maintained a sensitive position within the U.S. Government. My annual evaluations (2019 version attached) remain stellar and my loyalty to the U.S. Government and the Agency has never been questioned.

I stand resolute in the fact that I have never committed acts against the United States nor participated in activities detrimental to the U.S. Government or U.S. Agency for Global Media. I have committed no action that would bring my security clearance into question and therefore request that my security clearance be reinstated, and I be allowed to resume my duties as the Director, USAGM Office of Security. Thank you for your consideration of this request.

Appendix 1

Letters

August 25, 2020

BBG Director of Security (2008-2014)
Mr. Michael Lawrence
271 Burnt Wharf Rd.
Lancaster, VA 22503

CEO - Mr. Michael Pack
United States Agency for Global Media (USAGM)
Broadcasting Board of Governors (BBG)
330 Independence Ave., S.W.
Washington D.C. 20237

Subject: Agency Security Program

I have been following USAGM recently in the media and through contacts in the Agency and feel compelled to provide the following statements in an effort to bring additional clarity on the issues involving the Agency's Personnel Security Program.

I retired from the BBG in 2014, after almost 36 years of Federal service; the last 22 years was with the Office of Security at USIA/BBG/USAGM.

Background:

In 1998, the United States Information Agency (USIA) was abolished and restructured, some functions were transferred to the Department of State (DoS) and the broadcasting arm and some support functions were separated and formed a new Agency (BBG).

USIA's Office of Security was composed of five divisions with over 100 FTE's and was supplemented by several, million dollar contracts, providing the equivalent of another two divisions of 50-100 cleared contractors to support the office. The Director of USIA's Office of Security was at the Senior Executive Service (SES) level.

USIA also had Special Compartmental Information Facilities (SCIF) that were certified to store and discuss up to Top Secret national security information.

I was part of that office and when the restructuring of USIA was executed, I was offered a position with both the DoS and the newly formed BBG Office of Security. I decided to accept the position at the BBG.

BBG funded for a marginal office of security, bringing aboard from USIA a mere 13 FTE's to form its security program consisting of: Investigations, Adjudications, Domestic and International Security. There were no million dollar contracts. There were no SCIF's.

In its infancy, the BBG quickly realized that small Agencies were required to dedicate the resources necessary to follow and implement executive orders (EO) and directives in the same

manner that large Agencies were. The BBG struggled with funding and its priority was always with VOA Operations.

The Office of Security began requesting additional bodies and funding almost immediately in 1998. We were able to squeeze enough funding from the GOE account to fund approximately five contract investigators on a "pay for service" basis (not full time). The office inched forward with the hope of obtaining additional support from the BBG management.

The office also began identifying security deficiencies at our overseas facilities and began receiving BCI funding. BCI funding is provided by Congress that is earmarked for a specific project. Congress fully expects that all foreign affairs Agencies put in place security measures to fully protect their personnel overseas and provides any necessary funding to do so. This funding cannot be reprogrammed by the Agency for another use without the approval of Congress and it could not be used to support the Personnel Security Program.

Homeland Presidential Directive 12 (HSPD-12)

In 2004, the President issued EO HSPD-12 (Homeland Security Presidential Directive). This EO directed that all federal Agencies begin issuing a standardized federal credential (Smart Card). It provided absolutely ***NO*** funding to accomplish and required volumes of requirements and resources to accomplish. We struggled to comply with what little funding we had; again the office requested resources from senior management to accomplish and received nothing.

The subsequent implementation directive (Federal Information Processing Standard (FIPS-201), required that prior to the issuance of the new smart card, the Agency was required to perform a federal investigation for all employees and contractors that would have access to our federal facilities for six months or longer, with reoccurring investigations as determined by EO's.

This placed an extreme burden on our Personal Security Program. Again, additional funding was requested and the office received none.

All Agencies had difficulty in implementing HSPD-12 and the process was flawed. OPM set deadlines for completion and required Agencies to use NIST approved products only; which was not available until long after the first deadline. Completion dates were continued to be pushed back until they finally issued a directive that basically stated that: "All Agencies are to dedicate the resources necessary to implement HSPD-12 as soon as possible". The BBG was able to accomplish sometime around 2010.

Michael Lawrence, Director of Security

In 2008, our Director of Security retired, I was asked by Senior Management to assume the position of Director. It was never returned to a SES position and I held the grade of GS-15 as Chief of Physical Security already, so it was not a promotion. However, in the best interest of the office, I accepted the position and responsibility and moved forward.

I also began to request additional funding and people in order to accomplish the mission of the office.

Grantee's are provided personnel security support

In that same timeframe, our Grantees met with our IBB Chief of Staff (then Marie Lennon) and I. They requested that the BBG assume the responsibility of conducting investigations on all of their employees. Those that had access to federal facilities or access to classified information were already required by HSPD-12 or EO's to have background investigations conducted. I advised Ms. Lennon, that the office was already overburdened and did not have the resources to support. That they could contract with OPM or provide reimbursement to the Agency for services rendered. Ms. Lennon approved the Grantee's request and the office never received reimbursement, additional funding or bodies to support, critically burdening the office.

BCI Funding Removed

I also recall on at least two occasions when the Agency was in a budget crunch and senior management approved removing several hundred thousand dollars of Security's BCI budget, despite the warnings from me that BCI funding was provided by Congress for specific security projects and the removal and repurposing of the funding needed the approval of Congress and that it could not be reprogrammed at the Agency level as was other types of funding allocations. Along with this warning, I also stated in writing that: Removal of BCI funding places the life-safety of our personnel and facilities at risk.

The funding was later returned after a substantial delay, if I recall, it was at the end of year when other funding was freed up.

Congressman Rohrabacher Inquiry

In 2012, Congressman Rohrabacher asked the Agency to provide a briefing to him/staff up on Capitol Hill. He was concerned about the security of the Agency, the background investigations process and what was in place to prevent the possible infiltration by foreign elements that could have an impact on the integrity of the broadcasts.

During the visit, I went through a step by step example of a typical investigation and emphasized the many parts of the process, and that we strictly followed OPM's standards, Federal Law and applicable EO's. Basically, that we performed personnel security investigations exactly as any other Federal Agency. I also pointed out that since we were one of the few Agencies that had the authority to hire foreign nationals, that we also conducted a personal counter-intelligence interview. We also designated all positions as "sensitive", which drove more thorough investigations.

There were other elements that also provided input, but they were generally satisfied with Security.

Near the end of the briefing, they turned back to Security and asked my opinion on whether I thought the Agency had been infiltrated by foreign agents and my response was that it was possible, but since we conduct a more thorough investigation than most agencies, which include FBI and CIA INTEL checks, it is highly unlikely, that there are bigger targets out there.

They then asked about whether providing additional resources would help the office, 30-40 bodies and funding. It was a great opportunity to stand up and get what the office desperately needed. However, my response was that "We were briefed by senior management prior to coming here that we were NOT to ask for additional resources". That was then immediately repeated by our BBG Congressional Liaison. They then asked once again, could you use the additional resources? I replied that you can always do more with more and left it at that.

Later, the Congressman offered (informally) to senior management to provide 40 bodies and a large amount of funding to our Office of Security. Without discussion, they turned it down, citing that the additional security would make the employees of the Agency uncomfortable.

Later, just prior to my retirement in 2014, a reorganization of some of the offices occurred and we received a single FTE GS-9, with no security experience.

Reduction of Critical Positions within Security

Over the years senior management has also reduced the grades of two key positions within the Office of Security. Both the Chief of Personnel Security and the Chief of Physical Security were reduced from GS-15 grades to GS-14. These two positions are the backbone of the office and lowering the grades tends to limit the number of highly qualified candidates that would normally apply at the higher level.

The position of Director of Security was never returned to the SES level.

My personal experience with senior management at USAGM/BBG is that senior management consistently put their resources into VOA Operations and ignored their support services.

From a national security perspective, USAGM/BBG is a foreign affairs Agency and its mission is inextricably linked to the protection of the nation from foreign aggression. Specifically, the Agency is an information service to support U.S. foreign policy objectives, increasing the mutual understanding between the people of the United States and the people of other countries by means such as disseminating abroad information about the United States, its people, and its policies. Due to the political nature of the broadcasts, credible threats are often received by terrorist groups and organizations. Having a strong, capable security office is paramount to safeguarding the employees and providing a secure environment in which the mission can be accomplished.

2012 OPM Delegated Authority Renewal

In 2012, my Chief of Personnel Security completed a request to renew the delegated authority from OPM. However, at some point it was discovered by OPM that there was an error in the signature block, this was corrected after my retirement and to my knowledge had no impact on our authority to conduct national security investigations. This was something that OPM should have caught upon receipt and immediately corrected, thus a formality that appears to be blown out of proportion by OPM. A delegation of authority remains in effect unless formally withdrawn.

Special Compartmental Information Facility (SCIF)

There were no SCIF's at the BBG and although we could issue up to a Top Secret national security clearance, we could not discuss nor store TS information at the BBG due to the lack of a SCIF. At one point, BBG senior management approved the funding for a SCIF. Plans were drawn up and approved by the certifying Agency (CIA), however, later, the funding was never provided to actually construct the area. This hampered security operations as critical INTEL information could not be directly transmitted, discussed or stored at our facility.

I often received INTEL briefings from (sensitive Agency) that had to be toned down to the SECRET level due to not having a SCIF or I was forced to have the meeting at another Agency that had a SCIF.

After my retirement in 2014

I can't speak directly on the events that occurred after I retired in 2014. Fred Lang (formally my Chief of Physical Security) was appointed as Director of Security sometime after my departure and when he retired, Andrew Jansen succeeded Mr. Lang.

I knew Fred Lang and Andrew Jansen since 2005, both are veterans (as I am) and I can personally vouch for their honesty and dedication to the office's mission. I know that they too had difficulty obtaining the resources necessary to effectively build a robust security program.

It is my understanding that Mr. Jansen contacted OPM in 2017 in an effort to resolve the open recommendations and what was necessary to maintain delegated authority to continue operations. He brought that information forward to (now) the Director of Management (Marie Lennon).

USAGM senior management, by the direction of the Office of General Counsel, directed Mr. Jansen to continue operations. Delegated authority had not been formally removed at that point.

After a six month delay, senior management requested to be exempted from the remaining unresolved recommendations by OPM, only later to ask for an extension in order to comply, in which neither were approved.

Again, I cannot speak directly in regards to what occurred after I retired in 2014, however, knowing Fred Lang, Andrew Jansen and every other person that occupied the position of Director of Security, **ABSOLUTELY NONE** would never have acted without the direction and exclusive approval of senior management and GC.

When General Counsel Paul Kollmer-Dorsey was put into position at the BBG, he assigned an Agency attorney to each office to oversee operations and assert itself in all matters. Day-to-day operations of the Office of Security were strictly overseen by both IBB Chief of Staff Marie Lennon and by the General Counsel.

Security Clearance Basics

An Interim National Security Clearance or suitability determination can be issued based on a favorable review of the FBI fingerprint results and other documents submitted by an employee. I don't see that suddenly there will be unfavorable information discovered on all or any of the employees of the Agency. Appears OPM is over inflating this matter on how this actually affects national security and some common sense should be applied. GC can advise you, however, there is a Federal Law or Statute that states: Agencies are not required to repeat investigations if they know that the outcome of the investigations will not change.

Final Comment and Recommendation

Being retired for six and a half years, I am far removed from this matter, however, based on my experience as a previous Director of Security with the Agency, I can say without a doubt that senior management should be held fully and solely responsible for any shortfalls due to their strict oversight and the lack of providing the USAGM Office of Security the resources necessary to effectively accomplish their mission.

The Agency should immediately provide a substantial increase in resources to their security office and that Andrew Jansen should be immediately reinstated.

If you need additional information, please let me know.

Best regards,



MICHAEL T. LAWRENCE
Director of Security (2008-2014)
Broadcasting Board of Governors
271 Burnt Wharf Rd.
Lancaster, VA 22503
804-462-5243

CC: President Trump
USAGM Director of Security Drew Jensen

To Whom It May Concern:

From: Frederick D Lang

Subject: Memo for the Record (Andrew Jansen)

In response to recent news articles written about security shortcomings at USAGM/SEC, more specifically, against Andrew Jansen, I want to provide some background information and first-hand experience in rebuttal.

I was promoted to Director of Security at BBG in February 2015 (Acting) when Michael Lawrence retired. One of my first duties while fulfilling the Director position was to back-fill the numerous vacant security positions on our very small, 14-person FTE staff. At the time, we had 4-5 vacancies in Physical and Personnel Security Branches. I directly reported to Marie Lennon, OMS Director, who upon naming me Acting Director, agreed to bring my manpower up to required strength but this process took far longer than anticipated. It was crucial that we "get-well" on manpower as OPM/ODNI began implementing the Tier System for Personnel Security clearances.

The Tier System actually required more personnel than we were authorized, as the Tier System required more stringent investigative procedures. During this period, Mr. Peter Lagerberg was the Personnel Security Division Chief overseeing our delegated authority with OPM/ODNI. My office provided OMS all documents received from OPM/ODNI, and our implementing partners concerning upcoming changes to the Personnel Security process. All deadlines, timelines, suspense dates, inspection schedules, and discussions were shared with OMS as I was required to do. Since I was not permitted to "go direct" with BBG senior management, I briefed Ms. Lennon with the understanding all information I shared with her was being up channeled to BBG staff and the CEO. Obviously, this was not the case.

One of the biggest hurdles was BBG's defiance to use the "Position Designation Tool" to determine position sensitivity for ALL POSITIONS in the agency. Our job in SEC could not begin until HR identified the sensitivity level for each position--- something Ms. Lennon never directed HR to do. Even bigger, BBG refused to use the SF-85 or 85P for personnel security investigations. BBG directed SEC to use only the SF-86 in lieu of the correct document. Both of these examples are not up for discussion by ANY agency--- these are hard and fast requirements, yet BBG did it "their way".

When Mr. Lagerberg retired in 2016, Andrew "Drew" Jansen, who had extensive experience with the Personnel Security Program as both an investigator and adjudicator was named Chief, Investigations, Insider Threat, and Counterintelligence Branch. I was impressed with Drew when I first arrived at BBG in 2006, a hard-working, self-starter who often was called upon to handle the most arduous of tasks. Drew's knowledge of personnel security regulations and his ability to supervise a team of specialists are second to none.

For example, the new CEO (John Lansing) was brought on board and visited some of the various offices, SEC was one of them. My team prepared a SEC briefing to demonstrate what our services provide, what were our strongpoints, and our shortfalls. During this meeting, Drew briefed Mr. Lansing about our manpower shortfalls citing Federal Security requirements. Lansing's only remark was, "provide me with a manpower study." Since HR fell under Marie Lennon, who was present for the meeting, nothing was done to improve this issue, even though the new Tier System would require more personnel to operate.

On many occasions, at least a dozen, both Drew and I met with Marie Lennon and her OMS staff concerning the new personnel security requirements, one of which was position sensitivity that needed to be accomplished by HR. The previous major findings in our 2010 and 2014 OPM/ODNI Personnel Security Inspections stemmed from HR's inability to identify sensitive positions because the agency refused to follow Executive Orders (EO), as always, BBG did it their way.

Now, I understand, Drew is being blamed for years of ignorance by OMS, GC, and the CEO office resulting in our delegated authority being taken away. When Drew and I would meet with Marie and the OMS team, which Drew would spend countless hours preparing for and providing hard copies, we would look at each other and shake our heads knowing full-well that the time we spent with OMS was wasted.

Since retiring in Sept 2017, I have not been in contact with Andrew or the rest of the SEC staff since I retired, but to read what USAGM is alleging is criminal and I am happy to set the record straight. I have all my background notes, emails, and documents to show ignorance on the part of BBG as the root cause of why OPM and ODNI pulled our authorities. Andrew and SEC did their jobs, too bad the agency didn't have our backs or BBG's best interest in mind.

I understand that Mr. Michael Pack has assumed the role of CEO and wants to correct these serious deficiencies. This is noteworthy and I applaud the removal of some of the personnel named in the news articles I have read. However, you owe it to hear directly from people who were in the room over the years, people who tried to sound the alarm and prepare the agency for big changes. Andrew Jansen and his team have been ignored and stifled under the OMS umbrella, prohibited from going direct with senior management which would embarrass OMS, HR and other offices unwilling to do their jobs.

I and others are more than happy to provide additional background information in support of SEC and Andrew Jansen.

Frederick D Lang

August 19, 2020
Bernard J. Kotarski
3809 Winchester Lane
Bowie, Maryland 20715

To Whom It May Concern:

I am writing this letter to provide a character reference for Andrew (Drew) Jansen. I first met Mr. Jansen in March 2005 when he interviewed for a position as Special Agent with the Broadcasting Board of Governors/International Broadcasting Bureau's Office of Security. He was hired and I became his first line supervisor until I retired in March 2013. During the time I supervised Mr. Jansen I got to know him very well both personally and professionally.

In my opinion, Drew was an outstanding investigator and consummate professional whose integrity was above reproach. He was intelligent, dedicated, detail-oriented, and extremely competent with a work ethic second to none. He completed his investigative assignments in a timely manner with minimal supervision and was my go-to guy when it came to the more challenging cases. I could not have asked for a better employee and consider myself fortunate to have had Drew as a member of my staff.

Drew and I are friends as well. Our families have socialized together and I consider him an excellent family man and a loyal and trusted friend.

Sincerely,

Bernard J. Kotarski

27 AUG 2020

Subj: Office of Security - Manning

Re: Andrew M. Jansen, Director of Security, U.S. Agency for Global Media

To Whom it May Concern:

In May of 2009, I became an employee of the Broadcasting Board of Governors (BBG), in the International Broadcasting Bureau (IBB) Office of Security as a Federal Special Agent. In April 2018, I left BBG to accept a new position as the Head of Personnel Security for a U.S. Navy command and am currently in that same role.

When I first began work at BBG, the IBB Office of Security was staffed with the Chief of Investigations and Adjudications, Peter Lagerberg, two full-time investigators including me, Team Chief Bernie Kotarsky, a few part-time investigators, and three full-time adjudicators. The manning level in the IBB Office of Security (investigations and adjudications side) was at a bare minimum, and could have used two more full-time investigators and two more full-time adjudicators to keep abreast of the workload. Over time, part-time Special Agent Jim Bowman lessened his work load, assisted as both investigator and adjudicator, and then fully retired before I left BBG. I became dual-credentialed as both an investigator and adjudicator to occasionally assist with adjudications, when needed. Mr. Kotarsky and Mr. Lagerberg retired; Andrew Jansen became the Chief of the Investigations Branch, essentially filling Mr. Kotarsky's position. The managerial position Mr. Lagerberg held was dissolved, or was never filled.

In December 2012, the Office of the Director of National Intelligence (ODNI) in concert with the Office of Personnel Management (OPM) created and approved the Federal Investigative Standards, which by previous Executive Order required more efficient background investigations, a standard set of requirements used by all U.S. Federal investigative agencies to conduct investigations for each level of suitability and national security positions, that had to be reciprocally accepted throughout the U.S. Government. All of the five tier-level investigations were phased into use, but were fully executed by October 2016.

In October 2016, I was the only full-time investigator working at BBG's IBB Office of Security. With the 5-tiered investigation system fully in effect, it was impossible to conduct investigations in a timely manner for such a large agency as BBG. The Tier 3 (Non-Critical Sensitive positions) and Tier 5 (Critical Sensitive or Special Sensitive positions) investigations for Secret and Top Secret security clearances had some automated or USPS-mailed security checks and employment verification at the outset of opening an investigation. However, any required employment or education not verified through this process had to be assigned to an investigator. Employers, supervisors, and human resources departments often ignored official mailed verification requests.

Consequently, a month or two after an investigation opened, someone had to peruse every case file (Andrew Jansen) to determine what follow-up work was needed to complete each investigation. He had to assign an investigative file to a Special Agent to verify employment or education, etc., in order to successfully close the investigation. A full-time Security Assistant was responsible for sending out the initial mailed requests for employment and education verification. That individual retired sometime in 2018, but no one was ever hired in her place.

Sometime in 2017, two full-time investigators were finally hired for the IBB Office of Security, Special Agents Sabita Rudolph and Ethan Bruce, bringing the full-time investigations manning to three Federal Special Agents at BBG. The IBB Office of Security also utilized Department of State investigation personnel to handle overseas investigative leads and OPM contract investigators to supplement the three full-time BBG Federal Special Agents for work located across the country.

A few months before I left BBG, Agent Rudolph and I teamed together on a special investigation, based on a concern expressed by several personnel of the Mandarin Service of VOA. That special investigation took us one month, and we had to stop working on the regular background investigations we had, in order to conduct it. Investigative work can be very time consuming, which increases exponentially when there are derogatory issues. Going from three full-time investigators to only one during that month, must have caused a back-log for the regular background investigation work needed at BBG.

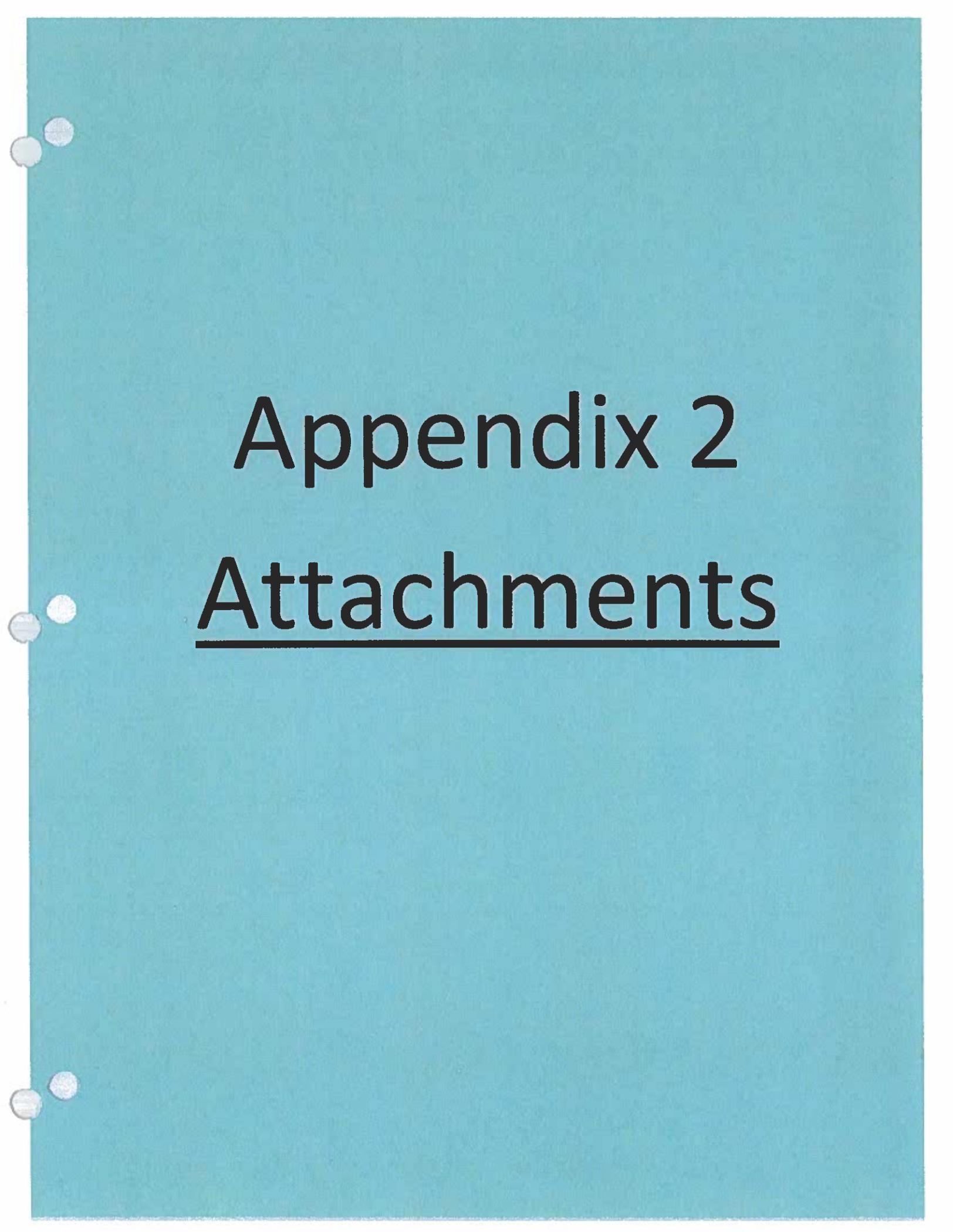
Before I left BBG, I asked for an exit interview in early April 2018 and met with Marie Lennon. I specifically addressed with her the manning shortage issues we had at the IBB Office of Security. The Office of Security never had the bandwidth or resources it needed, the whole time I worked for BBG. The physical security side of the IBB Office of Security "house" was never fully manned properly, either. All of USAGM's sites around the world should be inspected at least every other year by its Office of Security Physical Security Specialists to ensure the physical safety of personnel working at those sites and compliance with HSPD-12 requirements of protection of U.S. Government property and secure logical access to government computer systems.

By not having a fully-staffed USAGM Office of Security, the Director of Security, Security Specialists, Special Agents, and Security Assistants cannot meet all of the requirements demanded of the ODNI and OPM team inspectors, nor meet basic security requirements of U.S. Federal Government regulations. The management leaders above the Director of Security (OMS/IBB) of USAGM have hampered and stymied the Office of Security over and over again, for many years, by refusing to provide necessary monetary resources and staffing required to man it properly.

WRIGHT.KARAN
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Very Respectfully,
Karan A. Wright
Springfield, VA
karan.wright@ssp.navy.mil



Appendix 2

Attachments

Attachment – 1

MEMORANDUM FOR: JAMES R. CLAPPER
DIRECTOR OF NATIONAL INTELLIGENCE

SUBJECT: The Intelligence Reform and Terrorism Prevention Act of 2004
Results for Delegated Authority to Conduct Personnel Security
Investigations and Adjudications

In response to your February 23, 2011 memorandum, same subject, this office was not able to meet quarterly goals during fiscal year 2010 due primarily to insufficient resources.

To correct this issue, we plan to implement the following actions by the third quarter 2011 in order to meet IRTPA timeliness requirements by the fourth quarter 2011:

1. Supplement two additional Security Contract Assistants to process and initiate new investigations in a timely manner on the front end of the investigative process;
2. Increase the contract investigative budget to utilize contractor investigative resources to produce timely investigative results;
3. Obligate the Broadcasting Board of Governor grantees, particularly Middle East Broadcasting Network, to supply and fund their own in-house investigator and associated administrative support, in order to produce timely investigations;
4. Establishing dual credentialed investigators and adjudicators within the Office of Security in order utilize personnel security resources throughout the investigative process. This will mean upgrading current grade level structures for these positions. and,
5. The Office of Security will make a risk management decision based on the investigative information on-hand at the end of the 40 day period and if necessary, initiate special investigations on those cases where unfavorable information is discovered after the case is closed.

We appreciate your patience during this transitional period as we take these steps towards meeting established IRTPA standards.

Attachment 1

Attachment – 2

SECURITY PROFILE AND REVIEW

Spring 2011

Overview of IBB Office of Security

The IBB Office of Security ("Security") is tasked with safeguarding agency personnel, providing a safe working environment for employees in the US and overseas, and overseeing the security of classified material and government property. In this effort, Security employs 14 full time employees in two major divisions – Physical Security and Investigations/Adjudications ("Personnel Security") – and several contractors. An organizational chart for Security is attached at the end of this document.

Physical Security Division

The Physical Security Division includes a broad range of responsibilities, covered by five FTE staff. The major programs and activities include:

- Overseas physical security program – This program includes providing and maintaining the security of all VOA news bureaus and reporting centers abroad, as well as holding the Department of State accountable for the physical security of IBB transmitting stations overseas. The policies and standards for this program are governed by the Overseas Security Policy Board and the State Department Foreign Affairs Handbook. This is a labor intensive program, as it requires security personnel and contractors to visit overseas locations in order to fully understand the security needs, as well as oversee proper implementation and maintenance.
- Domestic Physical Security program – As with IBB locations overseas, Security is responsible for the physical security of domestic locations. These sites include domestic transmitting stations and VOA news bureaus, but also the Office of Cuba Broadcasting offices in Miami and the BBG headquarters in Washington, DC. This program has many facets:
 - Security is responsible for regulating access to facilities, i.e. card readers, electronic locks, and the closed circuit camera system.
 - Security conducts investigations into any security related incidents.
 - Physical security also coordinates protective details for dignitaries and important guests visiting BBG offices, particularly the Cohen Building. For many visiting heads of state or parliamentarians, VOA is "on the tour" of important Washington, DC stops. Security coordinates with all of these individuals in advance, making what is often an hour visit by the VIP a two or three day logistical project for Security employees.
 - Physical Security assists Labor and Employee Relations for disciplinary actions and maintains the Bar Notice List of individuals not allowed in BBG facilities.
 - While the Federal Protective Service is the Contract Administrator for BBG security guards, Security is the liaison between the agency and the guards. Security coordinates with the guards on access issues and protective details. Additionally, the guards are at the front line of responsibility for preventing unauthorized persons, including those on the Bar Notice List, from entering BBG facilities.
 - Security maintains a significant store of equipment for distribution and use in all BBG facilities, should any equipment need repairs or replacing.
- Credential program – The physical security division is responsible for issuing all credentials to BBG federal personnel, contractors, and designated grantee staff. Once individuals have been approved

ATTACHMENT 0

for an ID badge by the hiring authority and Personnel Security, staff from the Physical Security division issue their credentials. This group maintains the current credentialing system and will roll-out the new Smart ID credential program for approved FTE's and contractors, as required under Homeland Security Presidential Directive 12 ("HSPD-12").

- Information Security Program – Not to be confused with information security systems, the Information Security Program includes the management of all classified and controlled information throughout the agency: labeling, distribution, storage and destruction. Security is also working with cleared staff to ensure they are regularly trained to work with secure information properly.

Challenges

This division is faced with several challenges. Specifically, the responsibility for securing VOA news bureaus abroad must evolve as VOA does. The State Department and BBG developed a Memorandum of Understanding that authorized Security to maintain the physical security for VOA reporting centers abroad. However, as priorities in VOA change, so do reporting locations. While this requirement at one time covered a select group of Central Newsroom bureaus and correspondents, now it includes correspondents and producers from various VOA language services, and includes space that doubles as office and living space. When BBG took over responsibility for securing VOA reporting centers, VOA had less than 10 bureaus overseas, and Security did not receive additional staff resources despite the increased workload. VOA's presence abroad has expanded since then to include new bureaus as well as reporting centers managed by language services; this only compounds the workload for Physical Security staff who need to physically oversee each location to maintain its security measures.

Currently, Security only oversees security for VOA bureaus – they do not have oversight for grantee bureaus and reporting centers. However, in cases where VOA and a grantee share space, the grantee often sees improvements in physical security without any sense of the cost. As BBG moves to consolidate current bureaus or construct new shared bureaus, e.g. Kabul, the agency will need to consider the costs associated with larger spaces that potentially involve greater compartmentalization when preparing budget requests.

Another challenge is the upcoming roll out of the new Smart ID system. Though the new credentials will be implemented gradually, several offices will need to get new ID's immediately following the launch. This will significantly increase the workload among security staff for a few months. Further, the new Smart ID system will not replace the current credential system. Not all contractors will qualify for a Smart ID card; therefore, Security will have to actively maintain both credentialing programs.

Who's Who

- ❖ Frederick Lang, Physical Security Division Chief: Supervisor of four Special Agents, responsible for the domestic and overseas physical security division. Manages all physical security programs dealing with 7 domestic BBG facilities, 12 overseas VOA transmitter sites, and 21 VOA news bureaus internationally. Develops plans and programs designed to mitigate the threat and meet or exceed physical security requirements as outlined in Department of State Foreign Affairs Handbook and Overseas Security Policy Board ("OSPB") directives. Coordinates with the Office of Inspector General (OIG) on security assessments, upgrades, new construction, inspection criteria, and anti-terrorism mitigation at BBG's geographically separated locations worldwide. Acts as Contracting Officer's Technical Representative ("COTR") on various security contracts.
- ❖ Paul Panone, Special Agent, Security Technician: Plans, designs, and implements security enhancements, new construction, upgrades of physical security technical systems at all BBG

- locations worldwide. Provides supply and equipment inventory, budget forecasting and spend plans, Contract management, cost estimates for security supplies and equipment, Statements of Work, and financial plans for the Office of Security. Acts as COTR on various security contracts.
- ❖ Aleea Proctor, Special Agent: Responsible for the planning, implementation, and management of the Personal Identity Verification ("PIV") Smart Card program for the Agency under HSPD-12. Manages the C-Cure Security Access Control system for the agency which provides electronic access systems for HQ BBG and the domestic and overseas transmitter sites worldwide. Manages the BBG Badge office and is responsible for ensuring proper credentialing of BBG employees, contractors, visitors, and grantees.
 - ❖ Gregory Birch, Special Agent: BBG Information Security Manager, responsible for the safeguarding, labeling, marking, handling, disposition, and destruction of all classified materials within the agency. Provides initial and ancillary training to all BBG employees possessing a National security clearance. Acts as Agency Technical Representative for the armed security guard contract at BBG/HQ. Coordinates all local guard contract issues with Federal Protective Service ("FPS") and provides day to day oversight of all guard activities. Coordinates with and provides protective details with USSS (Secret Service), Department of State, Defense Security Service, and local law enforcement on visiting Heads of State and dignitaries, Congressional visits, etc., who arrive at VOA for interviews/broadcasts.
 - ❖ Enrique ("Rick") Castro, Special Agent: Responsible for providing security assessments, new construction design, and upgrade/enhancement planning for all BBG geographically separated locations. Provides site surveys essential to develop security plans designed to mitigate the threat and meet or exceed inspection requirements under the Foreign Affairs Handbook and OSPB directives.

Personnel Security

Unlike in Physical Security, the responsibilities and processes in Personnel Security are highly focused. The eight full time staff, along with several contractors, are responsible for conducting investigations and adjudicating security approvals and security clearances for all BBG staff and contractors. As an historical courtesy, Security conducts background investigations for staff at the grantee organizations, in addition to federal employees, contractors, and designated key grantee personnel. Despite the significant effort on the grantees' behalf, Security has never received support (staff or resources) from the grantees for these investigations, even when promised.

All staff will undergo an investigation for suitability, a background check based on several different types of required checks. Staff in positions designated for a security clearance will undergo additional checks to verify eligibility for the appropriate clearance. The checks required for suitability and clearances are driven by policy set forth in Presidential Executive Orders. Ultimately, the Deputy Director for Office of Management and Budget (Performance and Accountability) is responsible for implementing such Federal executive policies, but the practical oversight was delegated to Office of Personnel Management ("OPM") and the Director of National Intelligence ("DNI") - OPM is the Executive Agent for suitability checks and DNI is the Executive Agent for clearances.

For most government agencies, OPM conducts all investigations and each agency adjudicates individual cases. BBG has delegated authority from OPM and DNI to conduct and adjudicate its own investigations; most of the other agencies with this authority are in the intelligence community. This delegated authority allows Security to personalize its investigations based on BBG needs. Specifically, BBG maintains agreements with the intelligence community that OPM does not have, which allows Security to make more informed adjudications. Additionally, delegated authority affords BBG cost savings. Below is a cost comparison for the most common types of checks that Personnel Security performs:

	Security Cost	OPM Cost	% Savings
Single Scope Background Investigation (SSBI) – Required to obtain certain types of security clearance:	\$1,200	\$3,888	69%
Access National Agency Check and Inquiries (ANACI) – Required for most employees, including those with lower level clearances	\$200	\$252	21%
National Agency Check with Local Agency Check and Credit Check (NACLIC) – Required for all contractors and non-citizens	\$175	\$221	21%

The Intelligence Reform and Terrorism Prevention Act of 2004 (“IRTPA”) Title III outlines how long the process for all security clearances and approvals should take. Initiation should be complete within 14 days, investigation 40 days, and adjudication 20 days – 74 days total. The initiation phase officially begins when the applicant signs the SF-86 and extends until the first checks are submitted; at BBG this occurs when the applicant is fingerprinted, which triggers a fingerprint and name check in FBI databases. The investigation period includes the time it takes for all necessary checks to be submitted and received. Finally, the adjudication period begins when all information requested during the investigation is received and the case is assigned to an adjudicator; the final phase is concluded once the adjudicator makes a final determination on the clearance/approval. In FY2010, BBG was well outside these timelines. In the last reporting period, the process averaged 23 days, with the fastest taking only 1 day and the slowest taking 99 days.

Many agencies currently “game the system” by adjudicating cases based on whatever information they receive from OPM within the first 40 days of an investigation, often lacking much of what was requested. Further, OPM does not routinely resolve investigative issues unless requested and compensated by the agency. Security could follow this example to comply with the guidelines, though there are implications for overall security and efficiency. Given the nature of the staff we bring on, the Office of Security is concerned that after 40 days they will have almost no information to use for adjudication, a significant security risk. A mandatory 40 day period could also require a second look at many cases for adjudicators who are already facing an overwhelming case load.

Challenges

The agency’s greatest challenge for personnel security is meeting the IRTPA deadlines given the type of applicants we seek to employ. BBG seeks native speakers of its broadcast languages, so the agency employs a large proportion of non-citizens as FTEs and contractors. Many BBG applicants come from countries lacking robust record keeping systems; conducting background investigations in these countries is not possible. For such investigations the agency must rely on the U.S. intelligence

community, which is thorough but slow. In some cases, applicants come from countries that have tenuous relations with the U.S. government, therein drawing greater scrutiny and extending the investigation process. Finally, many applicants must use Romanized names, which often have variants. The investigation process will include permutations of the Romanized spelling, an approach that increases the effectiveness of the investigation but requires additional time.

Another challenge for the Personnel Security division is the sheer volume of its workload given current staffing capacity. Continued responsibility for grantee personnel in addition to federal personnel has overburdened Security staff. The strain is apparent at all points in the security approval and clearance process. Currently, data for all approvals and clearances must be entered manually. The manager of the classified file room inputs all of the data entry with assistance from one full time contractor and another part time contractor. As a note, these contractor positions have relatively high turnover, which has associated costs for productivity – any new contractor will need training and time to learn the data entry process. With a backlog of cases awaiting data entry, it is impossible for Security to develop a system for prioritizing its cases in a meaningful way. The investigation phase is the most time consuming part of the approval and clearance process. Security has both FTE and contract investigators. FTE investigators spend a significant portion of their time conducting personal interviews with applicants who are foreign nationals, which is time-intensive. Contract investigators are integral to the timeliness of the investigation process, but they are tied to the budget. In years like FY2011, a long term continuing resolution can result in significant back-up of investigations. Lastly, adjudicators must be FTEs. With only two full time adjudicators and two staff credentialed as both investigators and adjudicators, Security is limited in its ability to tailor staff assignments to workload demands. Finally, Security has several staff working on administrative duties. An administrative officer in the Office of Analysis and Administration works with Security along with several other IBB offices. In the absence of a dedicated AO, three security staff have taken on additional administrative duties, often to the detriment of their primary job functions.

Along these lines, Security is greatly limited by compartmentalization of information among entities and offices. For instance, contractors are employed at many VOA reporting centers and bureaus overseas who may never have been subjected to a suitability review or security approval from the Office of Security. These staff are usually discovered on an ad hoc basis as other issues arise, but there is a breakdown in communication somewhere in their hiring process to ensure appropriate security approvals are granted. This problem is only compounded with the grantees. While Security generally conducts investigations on all staff at grantee headquarters in DC (RFE/RL, RFA), Prague, Springfield, and Dubai, there is no verification if Security conducts investigations for grantee staff based in the field. Should Security need to conduct such investigations, legally or at the request of Senior Management and/or the Board, the workload will multiply to a level that Security is grossly understaffed and underfunded to address. Finally, personnel security responsibilities may vary from location to location. Anyone employed by BBG to work in a Security managed facility (such as a VOA bureau or reporting center abroad) may need to go through an investigation for security approval: depending on the reporting center this may or may not include stringers.

Finally, Security workflows will be affected by news systems that are being deployed throughout government. In October 2011, OPM is introducing a new Questionnaire for National Security Positions ("SF-86"). The new form is expected to request additional, increasingly complex information. Unfortunately, the more complicated this form, the more often it must be sent back for corrections and amendments, which creates delays. Moreover, OPM is transitioning away from a paper-based security questionnaire to a fully electronic system know as e-QIP. The move to a fully electronic submission will

have consequences for which the agency is currently unprepared. For instance, many BBG applicants are not native English speakers, and some apply in countries with limited technology. Security is anticipating applicants will need assistance understanding both the form and the e-QIP system. There is no consensus within the agency which office should provide that support (Security, Human Resources, Contracts, TSI, etc.), let alone a collaborative process to manage the transition.

Who's Who

- ❖ Peter Lagerberg, Chief of the Investigations and Adjudications Division: Acts as an adjudicator. Assigns completed investigations to adjudicators.
- ❖ Brenda McCormick: Manages the classified file room. Responsible for inputting all data into the case tracking system and ordering necessary checks for all investigations.
- ❖ Bernie Kotarski, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances. Assigns completed investigations to adjudicators.
- ❖ Drew Jansen, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances. Manages case control process, verifying if cases have all the necessary checks and investigations completed and ready for assignment to an adjudicator.
- ❖ Karan Wright, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances.
- ❖ Frances Hodge, Investigator and Adjudicator: Manages investigations for security approvals and clearances. Manages contract investigator program. Trained and eligible to adjudicate closed investigations when needed.
- ❖ Patricia Franklin, Adjudicator: Determines if an applicant is approved/cleared based on the information received in the investigation. Writes and manages OPM reconciliation reports. Completes clearance certifications for employees going to classified visits or to cleared meetings. Liaison with Metro PD for DC police checks.
- ❖ Paula Woodland, Adjudicator: Determines if an applicant is approved/cleared based on the information received in the investigation. Initiates requisitions for Physical Security Division.

Opportunities and Recommendations

Given the challenges that Security faces, there are several opportunities where processes can be streamlined or inefficiencies be addressed.

1. Identify all VOA bureaus and reporting centers that require physical security support from the Office of Security, as well as staff at those reporting centers who require security approvals by personnel security. Security only recently discovered that some services have correspondents and reporting centers abroad in addition to those maintained by the Newsroom. Right now, the agency lacks a clear mechanism for communicating additions or closures of filing centers and bureaus to Security. Some of these reporting centers will have staff in addition to the correspondents – these staff employed or contracted by VOA must also go through the security approval process. Further, the agency should evaluate if additional staff resources are necessary to maintain adequate physical security for the network of reporting centers. When BBG took over the security responsibility for bureaus abroad, Security received no additional staff to oversee security for VOA's existing bureaus. Now that the number of bureaus and reporting centers has roughly doubled, it is time to evaluate whether the current number of staff are capable of managing the expanded workload effectively.

2. BBG needs a plan for securing shared bureaus. Currently, Security does not oversee the physical security of grantee bureaus and reporting centers. As BBG moves to consolidate current bureaus or construct new shared bureaus, e.g. Kabul, the agency will need to consider the costs associated with larger spaces that potentially include greater compartmentalization when preparing budget requests.
3. Reevaluate current procedures for conducting investigations for all grantee staff. The MOU between BBG and the Department of State only requires that key personnel from the grantees have security clearances. The current procedures and standards for checking all grantee personnel have not been reevaluated in many years: the agency needs to reevaluate what types of checks are necessary for non-key grantee employees. Currently, grantee staff working at the various headquarters locations (DC, Prague, Springfield, Dubai) are vetted by Security, but it is unclear if all staff based in the field are subject to the same security scrutiny, and if they should be. The agency needs to determine which employees from the grantees are subject to security approvals. Then BBG needs to evaluate what resources would be necessary to conduct all required security approvals (federal and grantee) and determine if the Office of Security is the most cost effective entity to perform those investigations.
4. Assign Security a dedicated Administrative Officer. There are currently several people in the Office of Security who daily take on additional responsibility for budget projections, procurements, and other administrative functions to the detriment of their primary duties. The assigned AO in the Office of Analysis and Administration also works with Security on a daily basis. Assigning a designated AO will appropriately reflect the administrative workload in Security, as well as allow the limited staff in Security to focus on their primary responsibilities, many of which are delayed by administrative duties.
5. Coordinate the transition to new security forms among the offices dealing with applicants and new employees. The rollout of a new, more complicated SF-86 form and its eventual transition to a fully digital submission will affect Security, Human Resources, and the Office of Contracts. Consequently, the transition, particularly to e-QIP, will require active management and oversight to ensure that the deployments run smoothly and do not create further backlogs for personnel security. There is no consensus among these offices who should take the lead on managing these transitions, thus there is no plan for managing these transitions. A proposed solution is to make Human Resources responsible helping new employees, Contracts responsible for helping new contractors, and Security responsible for helping staff who are applying for recertification.
6. Ensure that the date on all SF-86 forms is the date that the applicant comes in to get fingerprinted and receive an ID card. Enforcing this date will require assistance and oversight from HR and Contracts, and it will curb the timeframe for the initiation phase of all approvals and clearances.
7. Eliminate the backlog of cases awaiting data entry. This backlog of more than 100 cases can easily be eliminated by offering overtime to current staff and/or hiring temporary staff for data entry. Reducing the time it takes to input applicant information into the database will curtail the total time for approvals and clearances dramatically. Additionally, Security should develop a system for prioritizing cases based on entity, prior clearances and reciprocity, and job function. With such delays for data entry, there is no way to speed the process by prioritizing cases.

Once the backlog is cleared, the data entry burden should be closely monitored to determine if additional staff are needed to keep up with the case load. Lastly, Security must anticipate and prepare for the effects of the new SF-86 and the transition to e-QIP on the data entry workload.

8. Streamline as many of the investigative procedures as possible. Security is working to automate education, employment, and court checks where possible. Additionally, Security will begin using email to check employment references, rather than sending a hardcopy by post, which will streamline the process. Finally, Security is considering changing its policy on conducting personal interviews: rather than conduct personal interviews with all foreign nationals, only interview foreign nationals who come from hostile countries. Each entity would be responsible for conducting the personal interviews for applicants as needed instead of the Office of Security.
9. Consider options for increasing the adjudication staff, who must be FTE's. Security is hoping to provide dual credentials for its FTE investigators and Adjudicators in order to assign the staff where the need is greatest. This would require additional training, but will increase the office's flexibility to address a fluid caseload.
10. Implement fastidious deadlines for the investigation period of all federal employee and contractor approvals and clearances. If Security does not see improvement in its timeliness, BBG runs the risk of losing delegated authority to conduct its own investigations. Without delegated authority, the investigative authority for all cases would go to OPM. However, having OPM conduct the investigations has several notable downsides. First, OPM meets its statutory deadlines by turning over whatever information is available after 40 days of investigation, which in no way guarantees that all of the information requested is actually available. Moreover, unlike BBG, OPM does not maintain agreements with intelligence agencies, so OPM investigations will be less thorough. Lastly, OPM costs more – for less tailored, less exhaustive checks. These factors indicate that it will be more cost effective to BBG in the long run to “game the system” in the same way as OPM by closing all investigations and beginning adjudication after 40 days no matter whether the checks are completed. As information comes in after the 40 day period, Security can re-adjudicate as needed. While reexamining cases may cause some inefficiency, that is only compared to operating without timelines – the same inefficiency would exist if OPM was requested and paid (they charge extra for this) to resolve any issues.

Attachment – 3

Subject: Re: MBN

From: Michael Lawrence <mtlawren@bbg.gov>

Date: Fri, 16 Dec 2011 11:31:32 -0500

To: Marie Lennon <miennon@bbg.gov>

CC: Ina Buckley <ibuckley@bbg.gov>, Frederick Lang <flang@bbg.gov>, Peter Lagerberg <plagerberg@bbg.gov>, Bernard Kotarski <bkotarsk@bbg.gov>

Marie,

Attached is the information you requested.

It is not in a formal format, let me know if you need additional details.

Thanks,

--
Michael T. Lawrence
Director of Security
Broadcasting Board of Governors
Office of Security
330 C St.
S.W., Room 4117
Washington, D.C. 20237
email mtlawren@bbg.gov
Voice (202) 382-7779
FAX (202) 382-7794
Cell - (202) 329-0034

On 12/15/2011 6:30 AM, Michael Lawrence wrote:

Marie,

I should have something for you by tomorrow, however, I am surprised that MBN brought this issue up as they contributed to the slow down in not hiring a security director that could conduct PI's and investigative street work after Al Finch departed and not providing resources to support MBN's workload as promised. As you are aware, on our side, we have not received additional resources from the BBG to support the Grantees as the program expanded from a few key officers to the entire Wash. and Prague staffs. Since the CFO has advised that reimbursement from the Grantees for these services is not cost effective, I will repeat within this document the recommendation that the Grantee's contract for these services outside of the Agency.

Thanks,

--
Michael T. Lawrence
Director of Security
Broadcasting Board of Governors
Office of Security
330 C St.
S.W., Room 4117
Washington, D.C. 20237
email mtlawren@bbg.gov
Voice (202) 382-7779
FAX (202) 382-7794
Cell - (202) 329-0034

On 12/14/2011 6:46 PM, Marie Lennon wrote:

Mike,

Just a heads up that during a visit today by Governor Ashe to MBN, the issue of slow processing of security clearances was raised. Given the Governor's interests I would fully expect that many questions will be asked so we should start assembling our responses. Recommend we start with a paper that provides background info, the nature of the issues and recommended solutions. Since this topic has been discussed before perhaps you can dust off previous correspondence and update as needed.

If possible I would appreciate a draft in the next few days. Let me know if that is a problem.

Thanks,
Marie

Intelligence Reform and Terrorism Prevention Act of 2004 Results for Delegated Authority to Conduct Personnel Security Investigations and Adjudications.docx

Security Profile and Review.pdf

Security Profile and Review.pdf

Content-Type: application/pdf
Content-Encoding: base64

Attachment 3

MBN Paper in Response to Governor Ashe-02.docx

MBN Paper in Response to Governor Ashe-02.docx

Content-Type: application/vnd.openxmlformats-officedocument.wordprocessingml.document
Content-Encoding: base64

Security Services for the Grantees

The Office of Security was requested originally to provide personnel security support for the Grantees by conducting background investigations for those Key Officers that required security clearances; however, this amounted to a small number and had little impact on office resources.

Requests to conduct background investigations on others outside the Key Officers expanded over the years and the IBB Office of Security now supports the entire Grantee Staff in the Washington D.C. Area; for RFE/RL this has been extended to the Staff in Prague. No additional resources have been provided.

MBN support:

Background

The Office of Security currently provides investigative support for the entire staff at MBN in the Washington D.C. area. These services consist of granting national security clearances, FBI fingerprint and name checks, CIA intelligence checks and personal security interviews.

Alfred Finch, former MBN Director of Security, conducted all personal interviews for applicants and reinvestigations from 2005-2009. The current Director of Security, Jim Nida does not conduct these interviews due to stated other security duties and a lack of time to produce security reports in an IBB format.

In June 2010, this office provided status reports and other investigative assistance in connection with a Department of State Inspector General audit regarding investigations and adjudications conducted on MBN personnel. During the course of the audit, MBN Senior Staff agreed to provide this office a contractor in order to facilitate the processing of MBN cases. This resource was never provided.

Under investigative and adjudicative delegation provided to the IBB from the Office of the Director of National Intelligence (ODNI), we are mandated to fully process investigations and furnish an adjudicative decision within 74 days of initiation of the investigation. On February 23, 2011 the ODNI reminded the Agency of these timeliness requirements based on quarterly statistics in 2010 that did not meet these standards. On March 14, 2011, to help meet timeliness requirements, IBB Director Richard Lobo responded that the agency is considering:

1. Hiring or contracting for two additional Security Contract Assistants to process and initiate new investigations in a timely manner on the front end of the investigative process;
2. Increase the contract investigative budget to utilize contractor investigative resources to produce timely investigative results;
3. Obtaining supplemental funding from the BBG grantees, as required to meet their needs for security investigations;
4. Establishing dual credentialed investigators and adjudicators within the Office of Security in order to utilize personnel security resources throughout the investigative process; and,
5. Employing a risk management analysis/decision to close cases based on the investigative information on-hand at the end of the 40 day period. If necessary, initiate special

investigations on those cases where unfavorable information is discovered after the case is closed.

New procedures have been implemented internally, but the additional resources cited have not been provided. The stated resources have been requested repeatedly by this Office.

In May 2011, a Security review was conducted by IBB Program Manager Ina Buckley. This review recommended that the following procedures be implemented:

1. Eliminate case backlog by offering overtime;
2. Prioritize cases based on entity, national security access requests, and job functions;
3. Streamline as many investigative procedures as possible such as conducting electronic investigative record checks whenever possible;
4. Increase adjudicative staff by certifying investigators as adjudicators. The dual credentialing will permit the staff to allocate its resources wherever the greatest needs are; and
5. Provide a FTE to take over the administrative functions that are currently being performed by several members of the staff so they can attend to their primary duties.

These recommended procedures (minus an Administrative Officer (AO)) have been implemented without any additional resources or offering of overtime.

Furthermore, a risk management approach has been implemented on cases, based on receipt of available investigative information on hand to meet ODNI established timeliness requirements. These procedures are really not in the best interest of national security, but nevertheless necessary to maintain current delegation authority.

Issues

Security services have increased over the years for all Grantees and have grown from a few Key Officers to the complete staff in Washington and Prague without a corresponding increase in resources to support.

The IBB/SEC office staff performs multiple functions in the areas of budget, logistics, and travel administrative duties normally assigned to an AO. These duties take away from critical time that would have been devoted to investigative and adjudicative tasks. This office has repeatedly requested for our own AO to accomplish these additional functions. In lieu of no support in this area, it was requested that these AO duties be transferred to the Office of Administration. Discussions are on-going in regards to the possible solution to this deficiency.

There are proposals to expand services to the Grantees further to include ALL of the remaining staff outside of Washington and Prague. This could amount to several thousand additional cases, would most assuredly impede timeliness requirements, without providing additional resources to accommodate. If this were to happen, our case load could possible double or even triple.

It should also be pointed out that we are dependent on other Federal Agencies to conduct portions of the investigation, such as; the FBI fingerprint and name check, CIA and DOS Embassy source checks, some of which may take up to a year before we receive the results. This is beyond our control and we stand in line like everyone else. An increase in resources will have no impact on when reports or inquiries are provided by other Agencies.

Federal Agencies with delegated investigative authority have been requested to implement e-QIP processing as soon as possible. Implementation of e-QIP would require additional contractor personnel to manage this program.

Solutions

Increase resources to our office.

Having the Grantees reimburse the Office of Security for services would help and was explored, however, the BBG CFO has stated that receiving reimbursement from the Grantees is not an effective solution due to the costs and logistics involved in moving funding around and therefore no longer an option that is being considered.

Highly recommend that the Grantees contract to obtain their security services with approved contractors who are already performing such services for Federal Agencies. Having the Grantees contract and manage their own personnel security program would avoid taxing this office further.

The Grantees have their own security program, personnel and budgets. Propose to consolidate these programs within IBB/SEC and have all aspects managed by our office.

Final Plea

This office has repeatedly requested additional resources to manage our security programs, with the last time occurring in September 2011, but to date, no additional resources have been provided.

Attachment – 4

Subject: Re: MBN Security Assistant

From: "James R. Nida" <jnida@alhurra.com>

Date: Fri, 17 Sep 2010 16:44:56 -0400

To: "plagerberg@BBG.gov" <plagerberg@bbg.gov>, "jnida@bbg.gov" <jnida@bbg.gov>

CC: "mtlawren@bbg.gov" <mtlawren@bbg.gov>, "bkotarsk@bbg.gov" <bkotarsk@bbg.gov>

That's a discussion taking place between Kelley and Marie.

James R. Nida
Director of Security
Middle East Broadcasting Networks, Inc.
7600 Boston Blvd
Springfield, VA 22153

703-852-3834(0)

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----- Original Message -----

From: Peter K. Lagerberg <plagerberg@BBG.gov>

To: James R. Nida; James Nida <jnida@bbg.gov>

Cc: Michael Lawrence <mtlawren@bbg.gov>; Bernard Kotarski <bkotarsk@bbg.gov>

Sent: Fri Sep 17 13:35:19 2010 Subject: MBN Security Assistant

Jim,

Has the Security Assistant been hired to enter MBN cases here?

If not, please advise when we they will be starting.

Thanks.

Peter

Attachment 4

Attachment – 5

Subject: Fwd: RE: Completing the Grant Agreements and the security side letter
From: Michael Lawrence <mtlawren@bbg.gov>
Date: Mon, 26 Sep 2011 21:36:21 -0400
To: Marie Skiba Lennon <mlennon@bbg.gov>
CC: Frederick Lang <flang@bbg.gov>, Peter Lagerberg <plagerberg@bbg.gov>

Marie,

I briefed Fred and Peter on this prior to my departure.

We need some guidance from you or your attendance at the meeting to ensure that we are on the same page.

Due to the impact on resources, I would recommend that the Grantee's be responsible for conducting/contracting for background investigations outside of those identified as "key officers". As I mentioned before, if we commit to accepting responsibility for processing the remainder, it could add several thousand cases to our workload. The other point to consider is that there are no EO's or federal requirements that require BI's be conducted on Grantee personnel (unless they require a clearance), however, "best" security practices would dictate that minimal checks be completed to ensure that we have made a reasonable attempt to determine that we have no one that poses a threat. There are a large number of contractors available that can provide the range of services necessary to accomplish this process.

Thanks,

--
--

Michael T. Lawrence
Director of Security
Broadcasting Board of Governors
Office of Security
330 C St.
S.W., Room 4117
Washington, D.C. 20237
email mtlawren@bbg.gov
Voice (202) 382-7779
Cell - (202) 329-0034

Subject: RE: Completing the Grant Agreements and the security side letter
From: Bernadette Burns <burnsb@rfa.org>
Date: Mon, 26 Sep 2011 13:07:04 -0400
To: Paul Kollmer <pkollmer@bbg.gov>, John Lindburg <Lindburgj@rferl.org>, "Anne R. Noble, Esquire" <anoble@alhurra.com>
CC: Ashley Pyle <apyle@bbg.gov>, Maryjean Buhler <mbuhler@bbg.gov>, April Cabral <acabral@bbg.gov>, Michael Lawrence <mtlawren@bbg.gov>, Frederick Lang <flang@bbg.gov>, Peter Lagerberg <plagerberg@bbg.gov>

Paul,

The proposed language in Attachment "E" is fine with RFA as it complies with limitations on the grant as stated by Congress.

ATTACHMENT 5

I can meet on October 5.

Bernadette

Bernadette Mooney Burns
General Counsel
Radio Free Asia (RFA)
burnsb@rfa.org
202 530 4965
www.rfa.org

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-----Original Message-----

From: Paul Kollmer [<mailto:pkollmer@bbg.gov>]
Sent: Friday, September 23, 2011 3:33 PM
To: John Lindburg; Anne R. Noble, Esquire; Bernadette Burns
Cc: Ashley Pyle; Maryjean Buhler; April Cabral; Michael Lawrence; Frederick Lang; Peter Lagerberg
Subject: Completing the Grant Agreements and the security side letter

Anne, Bernadette and John --

We would like to get the grant agreements finalized within the next couple of days so that they can be issued by October 1, per the Board's decision.

If you have not yet done so already, please respond to Ashley's email with the appropriate points of contact for your organization and any comments that you may have on the draft Attachment dealing with statutory limitations that are specific to your organization's grant (I think it is Attachment E or F).

Separately, I have spoken with our Security and CFO teams about Article X dealing with security matters -- mostly background investigations and clearances. See the attached. The Article says that we will agree to a letter outlining the agreed security protocols and deliver it after the grant agreement is executed. Based on our conversation, I think we need to have a broader discussion among the security professionals and our financial resource managers (and the lawyers) about the type of security arrangements that everyone can live with and find the right way to pay for them.

My proposal is for us to have an initial discussion either next week or the week where we "right-size" the required clearances and background investigations, etc., (including considering the impact of operations and the cost). Then we can work on drafting language that might meet everyone's needs. I would be grateful if you would contact your security officials and a financial rep and provide a range of times when they might be available for this discussion. We will set up a call-in number. Let me suggest Wednesday, September 27 at 10 am as a possible time for a telecon on this topic. If next week simply does not work -- it is after all the last week of the fiscal year -- please let me know and we can try to schedule something for the week after.

Thanks. PKD

RE: Completing the Grant Agreements and the security side letter.eml	Content-Type: message/rfc822 Content-Encoding: 7bit
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Attachment – 6

Subject: Fwd: Security Profile and Review
From: Bernard Kotarski <bkotarsk@bbg.gov>
Date: Thu, 15 Dec 2011 15:20:32 -0500
To: Peter Lagerberg <plagerberg@bbg.gov>

----- Original Message -----

Subject: Security Profile and Review
Date: Mon, 13 Jun 2011 09:13:24 -0400
From: Peter K. Lagerberg <plagerberg@bbg.gov>
To: Michael Lawrence <mtlawren@bbg.gov>
CC: Frederick Lang <flang@bbg.gov>, Bernard Kotarski <bkotarsk@bbg.gov>

Mike,

This the breakdown of our needs:

1. AO for M/SEC. This will be the single greatest step towards reducing our adjudicative backlog;
2. 1 More Contractor for reducing new case backlog. They will type voucher letters for NACLC's and ANACI's;
3. 2 Contractors to process eQIP cases. In order to meet timely investigative and adjudicative processing. Current staff cannot fulfill this roll. As it is, Personnel Security staffing will be diverted to handle Smart Card processing requirements.
4. \$30,000 additional investigative contractor funding for Contract Investigators to pick up cases that in-house FTE Investigators are unable to address due to redirecting resources towards reducing the adjudication backlog as dual credentialed adjudicators/investigators.

Peter

Michael Lawrence wrote:

I am hoping that we will get some additional bodies/funding out of this.

To prepare, I would think that we need to begin mapping out what we need in a formal request, I am sure Marie will not come back and give us bodies/funding and will want some logical input from us as to where we will need the resources and at what magnitude.

On the other hand, if she decides that we get nothing and maybe even cut some services that we provide, I still want to have the formal request on record.

ATTACHMENT 6

Fred/Peter,

Please begin putting on paper where you think additional resources are needed in your respective divisions, be quantitative and to the point, I do not think we need a long boring document, just where we need resources and how much.

I would like to have you input by the middle of next week.

Thanks,

Subject:

Re: Security Profile and Review

From:

Douglas Schuette <dschuette@bbg.gov>

Date:

Mon, 06 Jun 2011 17:13:40 -0400

To:

Marie Lennon <mlennon@bbg.gov>, Ina Buckley <ibuckley@bbg.gov>

To:

Marie Lennon <mlennon@bbg.gov>, Ina Buckley <ibuckley@bbg.gov>

CC:

Michael Lawrence <mtlawren@bbg.gov>, Kelu Chao <kechao@bbg.gov>

Ina Katherine,

Per our conversation, I have scheduled this meeting for 2:30pm on Thursday, June 9th.

Regards,

Douglas

On 6/3/2011 6:27 PM, Marie Lennon wrote:

Ina Katherine,

A belated thanks for your profile/review of the Office of Security. It's been an unbelievably busy week, but I would like to get together with you next week to talk about your observations. I'll ask Douglas to set up a convenient time.

Kind regards,
Marie

On 5/27/2011 11:12 AM, Ina Buckley wrote:

Marie,

I've attached my completed profile and review of the Office of Security. I am happy to meet with you to discuss the report and my observations in greater detail when your schedule allows.

Please advise with any questions.

Best,

Ina Katherine Buckley
Program Analyst
Broadcasting Board of Governors
IBB Office of Performance Review
202.203.4489
ibuckley@bbg.gov

--
Douglas Schuette
IBB Director's Office
202-203-4515

Attachment – 7

Peter Lagerberg

From: Peter Lagerberg
Sent: Tuesday, September 08, 2015 12:05 PM
To: Frederick Lang
Cc: Andrew M. Jansen; Frances Hodge
Subject: eQIP Contractor Administrative Specialist

Fred,

Based on the agency visits we conducted by SEC with USAID and State a couple of years ago, both recommended that we hire 3 contractor specialists who would run the day to day operations of eQIP. This was based on the size of our agency.

Both of these agencies have many more based on their larger operation.

Frances up till now has been the eQIP administrator resetting passwords, and being the principal POC with OPM. Based on the volume of work that she is currently dealing with, this function can no longer be sustained. Drew, is likewise buried in keeping up with initiating new FTE and Contractor investigations, as well as reviewing completed investigations.

At this juncture, our normal operations, even to maintain day-to-day investigative and adjudicative processing, cannot be maintained without the assistance from a full time trained contractor who will manage SEC's eQIP program as Administrator.

We are not requesting the recommended three contractors but only one, in order to effectively and efficiently run the eQIP program.

Full eQIP implementation cannot be sustained, as mandated by OPM and ODNI delegation, without obtaining a fully eQIP trained Contractor who will manage the processing and proper functioning of this program.

The August 2015 combined OPM and ODNI audit specified eQIP implementation as a finding, but we advised that our agency had begun the process for initial contractor investigations and agency-wide periodic reinvestigation updates, but initial FTE investigations have not been initiated via eQIP to date.

We are threatened to loose delegation without one full time contractor to run this program.

Therefore, it is requested that approval be granted for the submission of one eQIP Administrator (Contractor).

Peter K. Lagerberg
Chief
Investigations/Adjudications/Counterintelligence Division
Office of Security (M/S)
International Broadcasting Bureau
Broadcasting Board Governors
V: 202-382-7784 (Unsecure)
F: 202-382-7794 (Unsecure)
C: 202-329-0033
V: 202-619-4692 (Secure)

Attachment - 8

FY 2017 BBG UNFUNDED REQUIREMENTS (UFRs)

Entity: Office of Security

Entity Priority # 1 of # 2

Requirement and Justification Supplemental Contract Staffing

With the advent of serious change in the personnel security community, it has become apparent that a reorganization of positions and funding is required to allow the Office of Security to achieve associated timelines related to investigative tracts and adjudicative finality. Unfortunately, realignment or the addition of full-time positions is not actionable due to anticipated budget limitations in 2018. Although funding does not exist for fulltime positions, it has been recommended that funds be allotted for the placement of contract staff to fill the void until positions can be properly funded.

Currently, SEC requires the immediate assistance of three contracted personnel who would be utilized to supplement the investigative and the adjudicative sections. Two of the individuals would be assigned to the investigations branch as investigators and supplement existing staff with the completion of investigative requirements while allowing an existing fulltime investigator the opportunity to review case work on a temporary basis. The third contractor, would be utilized by the adjudicative branch in the capacity of an adjudicator. The Director of OMS, Marie Lennon, and the Director of SEC, Frederick Lang, have reviewed this issue and endorse the request.

The SEC is currently under contract with KeyPoint Government Solutions, Inc. to provide contract investigative resources at a cost of \$59.75 hourly. The estimated annual costs associated with the addition of two fulltime investigators and an adjudicator is \$372,840. Awarded funds would be expended for services rendered on an hourly basis, which may extend the overall outlay into 2018. It is anticipated that the funding request would be made on a reoccurring basis until fulltime positions are authorized or the need for supplemental assistance is rectified.

FUNDING & PERSONNEL REQUIRED

<i>\$ in thousands</i>	FY 2017	FY 2018	FY 2019
Salaries & Benefits	0	0	0
GOE	\$372,840	0	0
TOTAL FUNDS	\$372,840	0	0
# FTEs/Positions	0	0	0

- If awarded funding, how will it be executed by September 30, 2017
- Awarded through GSA Advantage – Acquisition and GSA Pricing
- Are funds needed for only FY 2017 – If not, include funding needs for future years

FY 2017 BBG UNFUNDED REQUIREMENTS (UFRs)

Entity: Office of Security

Entity Priority # 2 of # 2

Requirement and Justification

Office of Security Case Tracking Data System

Recent changes in the personnel security community have introduced programs that mandate the instantaneous sharing of information between federal agencies in support of investigatory reciprocity. Reciprocity requirements were put in place to limit the time and expense associated with personnel security investigations. One of the key elements in the development of a strong reciprocity program is having/procuring a secure and adaptable case tracking system that would allow for prompt data transfer between community partners and oversight agencies. In response to the needs of the security community, new case tracking software has been developed that would provide the Office of Security (SEC) with a secure, manageable, and interactive domain for investigative/adjudicative files while allowing for direct connectivity to our community partners, to include the National Background Investigations Bureau (NBIB) and the Office of the Director of National Intelligence (ODNI).

Currently SEC utilizes a case tracking system that acts as a secure repository for case information; however, the system is grossly inadequate in terms of connectivity, analytics, search platforms, or statistical analysis, all of which are commonly required for effective investigative/adjudicative activities and oversight requirements. Moreover, with the advent of Continuous Evaluation (CE) and Self Reporting (SR), programs mandated by NBIB and ODNI, it is imperative that SEC have a system that can intercommunicate with partnering systems by securely and expeditiously transferring data to accomplish required investigative activities. The ability to transfer and receive data would not only satisfy requirements for CE, but allow us to remain compliant with current requirements/regulations dealing with SR and other investigative activities like NBIB push notifications.

SEC is currently working with software provider, Entellitrak, to develop a SEC specific case tracking system that satisfies the existing security requirements. The base software utilized to develop the program is an existing case tracking product currently utilized by USAID, DOJ, GSA, and other federal entities. Start-up costs related to the program are estimated to be approximately \$261,785, with annual maintenance costs of approximately \$28,721. A copy of the Entellitrak brochure and cost estimate is appended to this request for review. Awarded funds would be obligated immediately and expended as contractually obligated, subsequent to the installation of the data system in 2017/2018. Moreover, the Director of OMS, Marie Lennon, and the Director of SEC, Frederick Lang, have reviewed this issue and endorse the request.

FUNDING & PERSONNEL REQUIRED

\$ in thousands	FY 2017	FY 2018	FY 2019
Salaries & Benefits	0	0	0
GOE	\$261,785	0	0
TOTAL FUNDS	\$261,785	0	0
# FTEs/Positions	0	0	0

SECURITY INVESTIGATIONS/ADJUDICATIONS BY FISCAL YEAR

	FY2015				FY2	
	Investigation	Adjudication	Reviewer	Admin	Totals	Investigation
# of FTE	1	3	1	1	5	1
# of CONTRACTORS	3	0	0	1	3	3
TOTAL STAFF	4	3	1	1	8	4

	2015	2016	2017 (Current)
Cases Received	826	747	597
Cases Closed	580	313	300
Open Cases	246	434	297

*Please note "Admin" column added

	2015	2016	2017
# of FTE	6	6	8

- *Contractor 1 acts as office receptionist, Contractor 2 conducts data entry for case initiation and Contractor 3 splits time between Insider Threat
- *Two new FTE investigators were hired 10/2016--Based on their hiring the Senior Investigator is assigned to part-time case review (.5 Investigator)
- *T-3 investigations initiated 10/2015 and T-5 Investigations initiated 10/2016.
- *All review work traditionally handled by Invest Branch Chief. In 01/2016, Division Chief retired (not replaced) transferring many assigned resp.

*In 5/2017 a fourth contractor was engaged to conduct EQIP & document evaluation.

*One FTE, listed under adjudication, represents the Chief, Adjudication Branch.

*2017 numbers run from 01/2017 to 08/2017

:016	FY2017 (Anticipated)								
	Adjudication	Reviewer	Admin2	Totals	Investigation	Adjudication	Reviewer	Admin3	Totals
	3	1	1	5	2.5	3	1.5	1	7
	0	0		3	3	0	0		3
	3	1		8	5.5	3	1.5		10

to represent FTE admin assistant.

at (IT) and Personnel Investigations (2015 through 2017). Currently IT investigator works with Physical Security Division (2017-forward).
tion/Review for 2017).

onsibilities to Invest Branch Chief. Currently Invest Branch Chief's review work is handled, on an as-time-permits basis.

Attachment – 9

Andrew M. Jansen

To: Nicholas Fechter
Chris Luer
Subject: Revision complete/Changes highlighted/Thanks!

Nicholas,

A couple of notes:

- 1) Alfred Finch needs to be added to the Contractor list identified as Insider Threat Manager (ITM), an independent position which is loosely associated with Personnel Security. At this point Alfred Finch works 24 hours of a contracted 40 hour work-week, which frees existing funds to assist with additional contract staffing. The reduction in hours was accomplished to provide funding for a contract investigator to supplement work efforts in the personnel security component that was not being properly accomplished by the ITM. Mr. Finch is contracted to accomplish personnel security work in addition to his work as ITM at a 50/50 split.
- 2) The prospective Case Review position was also not included on the prospective contractor sheet. This is a KEY position that will allow the investigative staff to focus on the investigative work load.
- 3) It should be noted that the hiring of personnel to fill existing positions (Karan's/Drew's) should not be in question, as this action adds no additional positions to the staffing element within SEC. That said, based on this plan the only additions to SEC would include temporary contract investigative staffing (for backlog), detailee positions (if made permanent), and a permanent contracted member for Case Review. The staffing plan, as described, provides for four FTE investigators and three FTE adjudicators (assuming detailee becomes permanent), which adds no additional Agency based FTE positions. This plan, if accomplished, should be initiated with the idea that position modifications and the associated effect will be reviewed in the future.

Please see other clarification/changes to include the addition of KeyPoint Investigators and other Contract Staff.

Drew

Drew,

Please see below two tables, the first table outlines the number of contractors in SEC that are both currently on contract and positions SEC anticipates contracting. The second table lists the same (current FTE and planned FTE). The rows in yellow denote planned positions to either hire or contract, and the rows in green denote detailed employees.

Can you review both tables and provide the names of your current contractors?

6/1/2008

Current and Planned Staffing (FTE & Contractors)

2012/10/10

Contractors

1	Seth Broadfield (KeyPoint)	Investigator (Field Work) DC	Performs interviews, investigative matters outside building/as needed basis
1	Marc Luterbach (KeyPoint)	Investigator (Field Work) Miami	Performs interviews, investigative matters outside building/as needed basis
1	Wylan Porter	ID Card Technician	Staffs SEC ID Office, answers questions about badge form, reviews applications/IDs, and prints ID card
1	Shamone Havnes-Werner	ECIP Technician	Generates unique link for the periodic reinvestigation of employees and contractors; reviews/approves all forms, and scopes case leads
1	Tasha Alford	Administrative	Acts as receptionist at SEC's Front Office, performs data entry of all mailed leads, sets-up all case files and
1	Holly Currence	Data Entry	Enters case elements captured in part or in whole via ECIP into SEC's Case Tracking System
1	Al Finch	Insider Threat Manager	and oversees SEC IRS records program
0.5	Joyce Littlejohn	Half-time Administrative Contractor	Assists with adjudicative tasks as needed
1	Potential Contract	Case Reviewer	Reviews investigation work conducted by the Investigators
1	Potential Contract	Backup Investigator 1	Focused exclusively on clearing backlogged investigations
1	Potential Contract	Backup Investigator 2	Focused exclusively on clearing backlogged investigations

Total Contractors: 10.5

FTE

1	JANSEN, ANDREW M	DIRECTOR	
1	McCORMICK, BRENDA S	SECURITY ASSISTANT	Admin
1	BRUCE, ETHAN	INVESTIGATOR	Investigator
1	RUDOLPH, SABITA	INVESTIGATOR	Investigator
1	FRANKLIN, PATRICIA Y	PERSONNEL SECURITY SPEC	Adjudicator
1	WOODLAND, PAULA JORDAN	PERSONNEL SECURITY SPEC	Adjudicator
1	MURPHY, ANGELA FLEMING	SECURITY ASSISTANT	Admin
1	HODGE, FRANCIS BOND	SENIOR PERSONNEL SECURITY SPECIALIST	Adjudication Team Lead
1	FABRE, MICHAEL WAYNE	PHYSICAL SECURITY SPECIALIST	Planned: Personnel Security Division Head
1	FACCTOR, ALEEA Y	SENIOR PERSONNEL SECURITY SPEC	
1	ALLEN, THOMAS H	SUPERVISORY PHYSICAL SECURITY SPECIALIST	Physical Security Division Head
1	KONES-ROBINSON, DARLEEN	DETAILED ECIP	Currently temporary, detailed until permanent plan determined
1	ANDREWS, JENNIFER	DETAILED Adjudicator	Currently temporary, detailed until permanent plan determined
1	VACANT	INVESTIGATOR (DUAL CREDENTIALLED ADJUDICATOR)	In-house technical expert engaged with managing current inventory of enhancement devices, installing enhancements, and performing maintenance work
1	VACANT	INVESTIGATOR TEAM LEAD	Currently temporary, detailed until permanent plan determined
1	VACANT (VICE WRIGHT)	PHYSICAL SECURITY SPECIALIST	Current Team Lead position; Vice Alan Wright
1	VACANT	PHYSICAL SECURITY SPECIALIST	Revised PD, Greg's position plus a few other duties that will aid MS&F
1	VACANT	PHYSICAL SECURITY TECHNICIAN	Managing the Penhouse supplies for upgrades at the Cohen Building and at facilities abroad. Oversees the installation of enhancements abroad

Total FTE: 38

Total Staffing Strength: 27.5

■	Denotes current details in SEC
■	Denotes a planned hire

Marie,

Based on our earlier conversation, I completed an analysis that indicated the Office of Security (SEC) requires additional personnel to support the mission. It is proposed that the following staffing levels are necessary to efficiently complete personnel security investigations in a timely manner, as specified by current policy:

Personnel	Total Number Required	Number Currently Assigned	Total Discrepancy
FTE Investigators	5	2*	-3
Contracted Case Reviewer	1	0	-1
Temp F/T Contract Investigator	1**	0	-1

*Please note that Karan Wright was not included in "number currently assigned," as she is slated to leave in April 2018
**Temporary F/T contractor needed to assist with backlog only. Estimated time required to complete backlog unknown.

Please note that the recommended personnel figures (above) are based on past and current case assignment figures. For example, during 2017, SEC initiated 1063 investigations. Of the 1063 cases, 551 were T3 and 25 were T5 investigations. More specifically, investigator involvement is required in most, if not all, of the T3 cases and all of the T5 cases, as interviews and other investigative actions are required based on issues identified during preliminary case review. That equates to an approximate inflow of 88 cases per month, including at least 48 cases requiring some form of investigator participation. It should also be noted that the aforementioned case levels do not include actions regularly undertaken by investigative staff, which include special investigations, counterintelligence inquiries, supplemental adjudicative assignments, or follow-up work associated with continuous evaluation (CE) inquiries.

Currently Karan Wright conducts case review while both Sabita Rudolph and Ethan Bruce conduct investigations. It should be noted that each investigator handles an average of ten cases per month, which leaves approximately 28 cases per month that are then added to the current backlog.

As previously mentioned, Karan Wright (GS-13) will be leaving the office in April 2018. Based on her departure, it is proposed that her work as a case review officer be reassigned to a contracted case reviewer, which would allow the investigator filling her position (GS 9-11-12) to focus on investigative work. Moreover, investigators filling the two remaining positions would also concentrate on current and backlogged investigations.

To assist you, I have included a comparison of year-one hourly expenditures associated with the hiring of FTE investigators (GS-9), contract investigators, and contracted case review personnel.

Position	Hourly Associated Costs
FTE Investigator (GS-9 Step 1)	\$26.94
Contract Investigator (KeyPoint Solutions)	\$59.75 (current contract cost)
Contracted Case Review	\$50.00 (estimated/no current contract)

Thanks you for your consideration in this matter. I look forward to your response.

2017
2018

Marie,

Based on our earlier conversation, I completed an analysis that indicated the Office of Security (SEC) requires additional personnel to support the mission. It is proposed that the following staffing levels are necessary to efficiently complete personnel security investigations in a timely manner, as specified by current policy:

FTE Investigators	3	2	-1*
Contracted Case Reviewer	1	0**	-1
Temp F/T Contract Investigator	1***	0	-1

Commented [NF1]: Draw, this is based on the two ye average of T3 & T5 SEC receives monthly, which is 33. E investigator closes on average 10 cases a month, so you need 3 to keep your head above water.

*Please note that Karan Wright was not included in "Personnel Discrepancy," as she is slated to leave in April 2018.
 **Karan Wright is currently performing case review. In her departure SEC would like to hire a case reviewer
 ***Temporary F/T contractor needed to assist with backlog only. Estimated time required to complete backlog is approx. two years

Please note that the recommended personnel figures (above) are based on past and current case assignment figures. For example, during 2017, SEC initiated 965 investigations. Of the 965 cases, 480 were T3 and 23 were T5 investigations. More specifically, investigator involvement is required in most, if not all, of the T3 cases and all of the T5 cases, as interviews and other investigative actions are required based on issues identified during preliminary case review.

All Cases Received	703	851	741	965
Tier 3 & Tier 5 Cases Received	0	0	288	503*
Cases Closed	662	749	551	739
Tier 3 & Tier 5 Cases Closed	0	0	73	293**
Open Cases (Backlog of T3 & T5)	21	102	215	210

*Jump in T3 & T5 Cases due to 5-Year Re-investigation period.
 **Two investigators were brought on board in 2017

Since the tiered system was introduced in 2016, SEC's investigators are closing roughly 20 cases a month. SEC receives an approximate inflow of about 70 cases per month, of which roughly 30 cases require some form of investigator participation. SEC currently has two investigators with a combined investigative output of roughly 20 cases a month, which leaves approximately 10 cases per month that are then added to the current backlog. It should also be noted that the aforementioned case levels do not include actions regularly undertaken by investigative staff, which include special investigations, counterintelligence inquiries, supplemental adjudicative assignments, or follow-up work associated with continuous evaluation (CE) inquiries.

PLEASE NOTE: Currently Karan Wright conducts case review while both Sabita Rudolph and Ethan Bruce conduct investigations.

As previously mentioned, Karan Wright (GS-13) will be leaving the office in April 2018. Based on her departure, it is proposed that her work as a case review officer be reassigned to a contracted case reviewer, which would allow the investigator filling her position (GS 9-11-12) to focus on investigative work. Moreover, an additional contracted investigator brought on to concentrate exclusively on backlogged investigations would only be needed for approximately

two years. (Current backlog stands at 210 T3 & T5 investigations, contracted investigator should close roughly 10 cases a month, working through the backlog in 21 months.)

SFC's current staffing levels by function are listed below (Physical Security Excluded):

SEC Staffing by Function Since 2015



There are currently five admin staff within the office, two are FTE and 3 are contracted. The investigative needs outlined above could be funded, in part, by dramatically reducing SEC's contracted administrative staff. Many processes in SEC are reliant on manual data entry, to include the information SEC receives via eQIP. Installing a new case management system in SEC would eliminate the need for much, if not all, of the data entry functions many of our contracted admin staff perform. While SEC anticipates a continued need for two admin staff, the savings in contract funding for three admin roles could be repurposed for financing the operations and maintenance of a new case system and partially fund the cost of the Office's investigative needs.

Commented [NF2]: I left two admin folks here bc I'm counting Angela Puryear as admin and you can't eliminate FTE. I'm not sure if it's possible to have a contractual couple as replacement for eQIP operations.

I have included a three year estimated expense of implementing this plan, to include grade increases up to GS-12 for the additional FTE investigator, backfilling the Case Reviewer as FTE GS-12 in Year 2 and GS-13 in Year 3 to replace contracted assistance in Year 1, and the elimination of the temporary contracted investigator in Year 3.

Item	Year 1	Year 2	Year 3	Year 4	Year 5
FTE Investigator (GS-0/12)	\$32.44	\$5,190.74	\$67,479.00	\$81,643.20	\$97,851.60
Contract Temp Investigator (KeyPoint Solutions)	\$59.75	\$8,550.00	\$124,280.00	\$174,220.00	50.00
Contracted Case Review (Year 2 FTE GS-12/13)	\$50.00	\$8,000.00	\$104,000.00	\$97,857.60	\$116,364.00
Total Cost			\$295,759.60	\$303,780.80	\$214,215.60

Thanks you for your consideration in this matter. I look forward to your response.

Anticipated FTE Staffing Changes

SECURITY	DIRECTOR	GS	JANSEN, ANDREW M	15	1
SECURITY	SECURITY ASSISTANT	GS	MCCORMICK, BRENDA S	09	1
SECURITY	INVESTIGATOR	GS	BRUCE, ETHAN	12	1
PERSONNEL	SENIOR INVESTIGATOR	GS	VACANT (VICE JANSEN)	14	0
SECURITY	INVESTIGATOR (DUAL CREDENTIALIED ADJUDICATOR)	GS	RUDOLPH, SABITA	12	1
PERSONNEL	PERSONNEL SECURITY SPEC	GS	VACANT (VICE WRIGHT)	13	0
SECURITY	PERSONNEL SECURITY SPEC	GS	FRANKLIN, PATRICIA T	13	1
PERSONNEL	PERSONNEL SECURITY SPEC	GS	WOODLAND, FAJLA JORDAN	13	1
SECURITY	SECURITY ASSISTANT	GS	PURYEAR, ANGELA FLEMING	09	1
PERSONNEL	SENIOR PERSONNEL SECURITY SPECIALIST	GS	HODGE, FRANCES BOND	14	1
SECURITY	PHYSICAL SECURITY SPECIALIST	GS	FABRIE, MICHAEL WAYNE	13	1
PERSONNEL	SENIOR PHYSICAL SECURITY SPEC	GS	PROCTOR, ALEEAY	13	1
SECURITY	SUPERVISORY PHYSICAL SECURITY SPECIALIST	GS	ALLEN, THOMAS H	14	1
Grand Total					11

Anticipated FIE Staffing Changes

SECURITY	DIRECTOR	GS	JANSEN, ANDREW M	15	1
SECURITY	SECURITY ASSISTANT	GS	MCCORMICK, BRENDA S	09	1
SECURITY	INVESTIGATOR	GS	BRUCE, ETHAN	12	1
PERSONNEL	SENIOR INVESTIGATOR	GS	VACANT (VICE JANSEN)	14	0
PERSONNEL	INVESTIGATOR	GS	RUDOLPH, SABITA	12	1
PERSONNEL	INVESTIGATOR (DUAL CREDENTIAL/IEC ADJUDICATOR)	GS	VACANT (VICE WRIGHT)	13	0
PERSONNEL	PERSONNEL SECURITY SPEC	GS	FRANKLIN, PATRICIA T	13	1
PERSONNEL	PERSONNEL SECURITY SPEC	GS	WOODLAND, PAULA JORDAN	13	1
PERSONNEL	SECURITY ASSISTANT	GS	PURYEAR, ANGELA FLEMING	09	1
PERSONNEL	SENIOR PERSONNEL SECURITY SPECIALIST	GS	HODGE, FRANCES BOND	14	1
PERSONNEL	PHYSICAL SECURITY SPECIALIST	GS	FABRIE, MICHAEL WAYNE	10	1
PERSONNEL	SENIOR PHYSICAL SECURITY SPEC	GS	PROCTOR, ALLEA Y	13	1
PERSONNEL	SUPERVISORY PHYSICAL SECURITY SPECIALIST	GS	ALLEN, THOMAS H	14	1
Grand Total					11

Attachment – 10

Here to clarify issues within SEC. Not comfortable here

1. contacts must be explained
2. what I have to say is problematic
3. Background

Over the last five-months, I assessed all programs related to SEC. Items found:

Personnel Security Division:

- 1) Staffing shortages (Less people than when I started here) Tiered Invest Need more
- 2) Insufficient Budget
- 3) Case Backlog (734 T3(R) alone
- 4) Antiquated and Inefficient Case Tracking Software (contract signed to fund new system 10/2018)
- 5) Untrained and ineffective Admin Staff (since changed)
- 6) Currently Open Admin FTE Slot (since May 2018)—See email
- 7) Current open Investigator position, yet to be filled (took months to get approval)

Physical Security Division:

- 1) Staffing Shortage (since rectified)
- 2) Mission Critical Issues:
 - a. No contract for security upgrades to support overseas SEC systems (Since 2015) Upgraded contract written and finalized with US Max 09/2018)
 - b. Insufficient assessment activities (since upgraded to include CI, Security Briefs)

Insider Threat:

- 1) Poorly produced/maintained
- 2) Program is subpar
- 3) Contract soon to be terminated

Identified Need for CI shop. Provided information, however, no response provided

OMS Director advised related to all issues:

- 1) More specifically, concerns dealing with staffing shortages, case backlog, and case tracking system issues were consistently mentioned since 2015-2016. Notifications were made earlier, but not by current SEC staff. No guidance/help provided:
- 2) **Most startling response:** Response concerning Physical Security contract issue, "I know, but I thought they were fixing as they went."

Interesting to note that nothing was accomplished to assist until I initiated contact with Mr. Lansing. Along the way it was noticed that information concerning SEC issues was never

Attar rest 1

passed to CEO/this is how contact briefings were developed. Following our discussions, things began to move... Case tracking became a reality, and a staffing study was completed (no additional staff have been authorized).

PRESENT DAY—ASSESSMENT—

Received 10/2018 / Conducted 04-05/2018

What it Identifies (Major Issues):

- 1) Failure to comply with Federal Regulations (1400, 731)
- 2) Failure to obtain Delegated Authority
- 3) Training/Process issues (SEC/OHR) To include OHR
 - a. No suitability checks (OHR)
 - b. No CVS checks (OHR)
 - c. No PDT (1400) (OHR)
 - d. No COI (OHR)
 - e. No Suitability Training (OHR)

Some topics reach back as far as 2006

Topics, one-by-one:

- 1) Failure to comply with 5 CFR 1400 after three year push (please note that this action, PDT, has been required for a long time, but not mandated as a CFR until June 2015.
 - a. OMS Director notified of requirement 6/2015—initially declined action
 - i. When pressed, OMS Director ordered 1400 explanation be written, as, “CEO does not understand government stuff.”
 - ii. Document written 12/2016, but never provided to CEO
 - b. OGC declined --stating CEO wants to keep agency as non-critical sensitive across the board. No 1400.
 - c. After many meetings and against SEC wishes...
 - d. OMS formulated extension letter to OPM (never received and out of date)
 - e. OMS then sent letter explaining that we are in compliance with 1400 in April/2018 based on bad logic
 - f. OPM suspends investigative activities based on non-compliance. First agency ever!
- 2) Failure to Obtain Delegated Authority
 - a. USAGM signs Delegated Authority MOU 2010
 - b. USAGM Fails to renew DA MOU 2012
 - c. USAGM-OMS Dir, SEC Director, and Chief Invest Division notified in 11/2015 through SNAP inspection draft report that agency is out of compliance/No Action Taken
 - d. I caught the issue July 2017.
 - i. Contacted OPM to verify

- II. Verified over a month later
- III. Notified OMS Director
 - i. Was told to keep the information to myself
- IV. Received 2014 SNAP report Final 08/2017/verified the issue
- V. Began attempts to reach OPM personnel to obtain instructions to correct issue
- VI. Reached Lisa Loss (OPM SuitEA) at a meeting 05/2018
 - i. Discontinue Investigations/Transfer to Another Agency
 - ii. Told to write letters requesting renewal
 - iii. Told to increase staffing to handle workload
 - iv. Other major hurdles
- VII. Immediately Notified OMS Director of Recommendations/No decision/OMS-OGC Orders Investigation Process to Continue
- VIII. Wrote letters 5/2018 and forwarded to OMS Director for review and CEO signature
- IX. OMS Director initially requests Jeff Trimble to sign but he declines
- X. OMS Dir holds letter before transferring them to GC
 - i. Nicholas Fechter was asked why OMS Dir held letters stated, "Marie was concerned the David Kligerman would use the letters as evidence of her inability to manage staff.
- XI. GC holds letters until end of October 2018 after the SNAP Draft was received
- XII. Later determined that Chris Luer was asked by OMS Dir to approach Trimble for signature based on their friendship. Trimble declined and retired

3) Timing Process Issues

- a. Most Agency Suitability and EQIP actions are handled by OHR staff / All have been trained
- b. OHR staff also responsible for PDT/PDR activity (never assigned based on OMS/GC decisions)
- c. OHR has never properly conducted business, which has played a part in SEC for many years.
- d. Complaints were registered with OMS Dir, who would only comment that they are a very incapable group and laugh, but would never provide correction/direction
 - i. Based on this, henceforth, SEC will no longer allow OHR access to EQIP/CVS/ they will instead notify SEC to accomplish the taskings
 - ii. OHR must however conduct PDT checks, training must be scheduled for PDT and suitability reviews.
- e. Add in indecision related to Grantees (going on for years)/RFE/and interference in process (Matt/Travahoe/Joy Cases and others) question process//not good
- f. OMS Dir does not talk to CEO—Are you...
 - i. Familiar with Sao Tome

ii. Beijing

Bottom line, Security has been either ignored and/or mismanaged for years!

What's the answer?

To get us moving in the right direction I would recommend a shift in the Org Chart I cannot promise to get things moving under this management. Met with ODNI folks Tuesday—
EVERYTHING MUST CHANGE!

Move SEC out of OMS where information can flow more freely and when decisions need be made, we have a seat at the table.

I think it would be much easier to sell a revival with OPM/ODNI if our oversight changes

MARIE has overseen our last three or four SNAPS... All disasters

Attachment – 11

Board Presentation:

I. Introduce self

- A. Introduction
- B. Five Month

II. Personnel Security Division

A. In April 2018 SEC subjected to an OPM / ODNI Assessment of our Operations

1. A review of process and procedures led
2. To a poor outcome
3. On October 25, 2018, USAGM received Draft OPM Assessment Report
4. 37 recommendations were identified that must be corrected, to include a suspension of our Delegated Authority
5. Most issues were minor in nature and easily corrected; However
6. Major Issues amounted to
 - a. Agency Failed to comply with requirements associated with 5 CFR 1400/
 - b. 1400 mandated Agency to reassess all positions for sensitivity; However,
 - i. Agency disregarded requirement and
 - ii. Filed for a Waiver with OPM/
 - iii. No response from OPM other than issued suspension
 - c. Expired Delegated Authority
 - i. All current cases forwarded to OPM
 - ii. Delegated Authority renewed upon correction of issues
7. Correction activities are ongoing
 - i. All case work transferred to OPM, as required
 - ii. SEC has written a new SOP/addressing all admin issues
 - iii. Instituted new onboarding process to comply with HSPD 12
 - iv. Working with OHR and GC to institute
 - v. Reviewing process / capabilities

Questions?

ATTACHMENT 11

Attachment – 12

BUDGET SUMMARY OFFICE OF SECURITY

Office of Security (OMS)

The Office of Security (SEC) is responsible for all facets of security within USAGM operations to include Physical Security Inspections/Process, Personnel Security Investigations, Counterintelligence Investigations, and Insider Threat Monitoring. More specifically, SEC is responsible for the security assessment, inspection, and repair of all technical and physical security elements sited at conus/oconus facilities; for the investigation and adjudication of all personnel requiring access to Federal facilities or materials; the development of information-sharing relationships within the intelligence community to counter foreign intelligence operations affecting agency operations; and to deter, detect, and mitigate insider threats within the agency.

The following is a breakdown of SEC internal units and estimated operational expenses:

Physical Security/Inspection Division (PSID)

BCI Funded

The PSID utilizes security surveys, assessments, and technical surveys to effectively upgrade the infrastructure of physical and technical security elements utilizing the latest standards and equipment. More specifically, PSID recommends facility enhancements and engineers the overhaul or upgrades of physical security equipment located both overseas and domestically to meet the latest Department of State's Office of Strategic Planning Board (OSPB) and Interagency Security Committee (ISC) requirements. SEC regularly liaises with the Department of State (DOS), Bureau of Diplomatic Security to share physical security assessments to enhance the protections associated with the safety of USAGM personnel assigned overseas at news bureaus, transmitting stations, regional marketing offices, monitoring stations, and Federally funded Grantee sites.

During FY 2021 the PSID plans to visit, assess, and document the security status of each of USAGM's overseas offices and facilities. USAGM transmission stations are diplomatically accredited facilities and subject to comprehensive interagency security requirements and standards. The Office of Security plans to work closely with security contractors to evaluate, develop, document, and execute security-engineering projects mandated for each overseas transmission station. The PSID aims to assess and document the security status of each transmission station during FY 2021 and begin security-engineering projects for FY 2022 and 2023. Likewise, throughout FY 2021 and 2022, PSID plans to travel to, assess operational readiness, and document the security status of each VOA bureau on a two-year cycle. Because the transmission stations are required to comply with a more rigorous set of State Department-mandated security countermeasures, the PSID plans to travel to and inspect each transmission station annually for security system inspections and equipment replacement/repairs.

During FY 2021, PSID will visit each domestic facility, to include transmitter sites and Federal offices. The assigned Special Agent will assess each facility based on ISC standards and formulate reports and cost estimates to bring the facilities to code.

Please note, that due to the COVID-19 pandemic crisis of 2020, security inspection teams were unable to perform many surveys and assessments planned for FY 2020. The associated travel restrictions and health concerns constrained the ability of the PSID to conduct site evaluations, formulate recommendations, and establish engineering plans for updating the security infrastructure of overseas facilities. An aggressive inspection process is proposed for FY 2021/2022 and will be initiated once travel restrictions are lifted, budget permitting.

[Handwritten signature]

Accomplishments:

- Initiated talks with the Bureau of Diplomatic Security to formally determine and identify USAGM facilities currently under Chief of Mission (COM) authority and those that are excepted from COM responsibility to allow for the streamlining of security services
- Provided material support to USAGM transmission sites located on Tinian and Saipan, Northern Mariana Islands, to repair damages associated with fencing and closed-circuit television systems damaged during Typhoon Yuto
- Conducted a security assessment of the Sao Tome' Transmission Station to mitigate concerns related to dangers associated with Radio Frequency (Rf) signals and assure OSPB compliance
- Supported USAGM Botswana Transmission Site with funding for materials to mitigate damage to facility fencing and antenna fields by passing elephants
- Procurement of OSPB compliant Explosives Trace Detection devices and embassy compatible Emergency & Evacuation Communication Radios for COM transmitter sites
- Generally, replaced defective security equipment at overseas facilities, which included perimeter fencing, door hardware replacements, IDNS imminent danger notification systems, anti-ram barriers, FEBR Doors/Windows, fence protection system (FPS), CCTV surveillance systems, emergency communications equipment, and access control devices

Projected Plans/Projects (BCI Funding):

- **FY 2021**
 - PSID intends to visit each overseas transmitter site (10), conduct site security assessments, security engineering surveys, and perform maintenance/repairs before conducting out-briefs with associated Department of State RSO. Additionally, 14 bureaus and one TSI monitoring office will be assessed for security deficiencies followed by RSO debriefs. Estimated costs associated with the aforementioned activities is \$668,000.
 - The PSID intends to visit each domestic facility, to include transmitter sites and Federal offices, to assess operational readiness, document security deficiencies, and formulate corrective actions to meet ISC standards. Estimated cost of the aforementioned activities and repairs is \$30,000.
- **FY 2022**
 - The PSID intends to visit eight of ten overseas transmitter sites to conduct site security assessments and perform maintenance/repairs before conducting out-briefs with associated Department of State RSO. PSID will also begin planned upgrade projects of technical security elements located within the Tinang Transmitter Facility (Philippines) and the Sao Tome Transmitter Facility at a total estimated cost of \$1,021,000. Additionally, 20 Agency operated or funded bureaus, regional marketing offices, and monitoring offices will be assessed for security deficiencies followed by RSO debriefs. Total estimated costs associated with the aforementioned activities is \$1,530,300. Please note, technical security systems include the following components:
Access control systems including locks; Automated Access Control Systems (AACS); Closed Circuit Television Systems (CCTVS); Intrusion Detection Systems (IDS); Fence Protection Systems (FPS); Emergency Notification Systems (ENS); Imminent Danger Notification Systems (IDNS); Security Interface Cabinet (SIC); TSS Power (systems power supplies, UPSs, etc.); TSS Infrastructure (conduit, cabling, etc.); Security key control (Key-watcher system, lock box, etc.); Walk Through Metal Detector (WTMD); Explosives Detector (Itemizer); X-ray machine

***Please note that FY 2021 BCI funding is estimated to be \$600,000; however, current SEC contractual obligations exceed the overall budget by approximately \$135,000, before inspection and survey costs are factored. If additional funding is not awarded, unfunded FY 2021 inspection operations will be pushed to FY 2022 and projects designated for FY 2022 will be accomplished in 2023. If inspections and/or projects are delayed, PSID will immediately assess risk factors associated with the safety and security of agency personnel and facilities to prioritize limited repair and replacement strategies based on known operational deficiencies.*

FINANCIAL SUMMARY BCI FUNDS FY 2021/2022

FY 2021 BCI Financial Summary:

➤ Estimated FY 2021 Budget: **\$600,000**

Estimated Contractual Obligations/Project Costs:

➤ Preexisting Contractual Obligations: **\$735,000**

➤ Projected Project Costs: **\$698,000**

Total Budget Items: **1,433,000**

Budget Differential: **(\$833,000)**

FY 2022 BCI Financial Summary:

➤ Estimated FY 2022 Budget: **\$600,000**

Estimated Contractual Obligations/Project Costs:

➤ Preexisting Contractual Obligations: **\$335,000**

➤ Projected Project Costs: **\$1,560,300**

Total Budget Items: **1,895,300**

Budget Differential: **(\$1,295,300)**

Personnel Security Division (PSD)

GOE Funded

The PSD is responsible for the investigation, adjudication, access approvals and the issuance of security clearances per 5 CFR Section 731 and Executive Orders (EO) 13467, 13488, and 12968. The office, in cooperation with the Defense Counterintelligence and Security Agency (DCSA) and the Office of the Director of National Intelligence (ODNI) is responsible for the timely processing of investigative requests through the Electronic Questionnaires for Investigations (e-QIP) system and the monitoring of investigative activities involving USAGM employees, contractors, and associated Grantee personnel requiring access to Federal facilities, data-systems, and/or classified material. Personnel security investigations are subsequently reviewed for position suitability via an adjudicative process utilizing Adjudicative Guidelines, as established in EO 12968 and Security Executive Agent Directive 4 (SEAD 4). The PSD processes between 600-800 personnel investigations per year; however, it is anticipated that the overall number of cases handled will increase, as the PSD is slated to handle a larger portion of Grantee personnel investigation in the foreseeable future.

FY 2019-2020 Accomplishments:

- Partnered with DCSA to conduct investigative services for all USAGM affiliated personnel
- Established an e-QIP Section responsible for the timely processing of investigative materials to include security package review, the initiation of e-QIP requests, security application reviews/release, and other related administrative responsibilities
- Partnered with DCSA to conduct Continuous Evaluation (CE) of agency personnel, which provides additional oversight of personnel holding national security positions while, in many cases, relieving SEC's responsibility to conduct periodic reinvestigations and consequently limiting the Agency's expenditures for security investigations
- Partnered with the Government Services Administration (GSA) to assist USAGM with adjudicative functions related to the review of personnel security investigations of SEC assigned personnel

Counterintelligence Section (CI):

GOE Funded

The mission of the USAGM CI Program is to detect, deter, and disrupt threats against USAGM by foreign adversaries, foreign intelligence entities (FIE), and hostile enterprises or actors, which can occur both domestically and abroad. The objective of the CI Program is to assist and protect the Agency's mission. The Agency's CI Section does its part, both internally and externally, utilizing its Intelligence Community (IC) partners to counter threats made against our vital assets while acting in accordance with the National CI Strategy.

The capabilities of CI continue to grow through an extensive investigative and information-sharing relationship with the Federal Bureau of Investigation (FBI) and other Intelligence Community (IC) partnerships, including the Office of the Director of National Intelligence (ODNI) and that National Counterintelligence and Security Center (NCSC). Currently, the CI has partnered with the FBI through their newly created National Counterintelligence Task Force (NCITF). The NCITF is a multi-agency investigative and analytical consortium of U.S. government agencies' counterintelligence elements. The NCITF's mission is, "partner engagement at the national level in order to develop an overall direction to whole-of-government CI efforts," by "providing common goals and strategy, threat prioritization, training, analytical support, technical expertise, coordination, standardization, and information sharing." While led primarily by the FBI and other IC members, USAGM is one of the few Non-Title 50 agencies to initially join this Task Force, which is considered the first of its kind. This Task Force will provide USAGM with an unprecedented level of access, counterintelligence support, and intelligence reporting. Presently, a Memorandum of Understanding (MOU) is being negotiated between USAGM's Office of Security and the NCITF.

Additionally, the CI has solid and reliable relationships with the following IC agencies:

- FBI's Headquarters, Washington Field Office (WFO) and the Critical Incident Response Group/Behavioral Analysis Unit (CIRG/BAU)
- National Security Agency (NSA)
- ODNI
- NCSC
- Department of State (DOS)
- Customs and Border Protection (CBP)
- Immigration and Customs Enforcement (ICE)
- Transportation Security Administration (TSA)
- Department of Defense (DOD)

Accomplishments:

- In FY 2019 and 2020, the CI Office continued to track trends on attacks and threats. These statistics will assist the agency in making defensive and offensive decisions. Once the agency's JWICS accounts are finalized, this pooled data, in addition to historical data, can be analyzed more efficiently. It will also give the agency a repository to report any relevant information to the IC for their tracking or informational purposes.
- In February 2020, the CI office began working with the National Archives and Records Administration (NARA) to explore options to reinstate the agency's Original Classification Authority (OCA), which was rescinded upon approval and passing of Executive Order 13526. This effort has been placed in a holding pattern until both USAGM and NARA return to normal operations.
- There are several key components of the program that are well underway but were paused due to the global pandemic. Such components include:
 - CEO designation of a Federal Senior Intelligence Coordinator (FSIC)
 - ODNI's 'Tiger Team' CI assessment, brief to the CEO
 - CI Awareness campaign and training to be utilized agency-wide
 - Development of CI Program's policy
 - Revamping the foreign visitor vetting process

Insider Threat Program (ITP)

GOE Funded

The USAGM Insider Threat Program is designed to deter, detect, and mitigate insider threats within the agency. This includes protecting against damage to the nation and agency through espionage, terrorism, unauthorized disclosure of national security information, or through the loss or degradation of departmental resources or capabilities. The key feature of the ITP is the "Hub", which is a working group comprised of representatives from key offices within the agency, such as Human Resources, Information Security, Counterintelligence, and the Office of the General Counsel. The Hub is used to share, compile, and analyze data on individuals identified as potential insider threats to determine the best course of action for mitigation.

The ITP works closely with the National Insider Threat Task Force (NITTF), which is under the joint leadership of the US Attorney General and the Director of National Intelligence. Currently, out of 26 minimum standards, only two minimum standards remain for USAGM to achieve "Full Operating Capability" (FOC). These standards have been addressed and are currently under review by the NITTF Assessments Team for FOC designation. Additionally, the NITTF and the Office of the Undersecretary of Defense for Intelligence and Security have recently initiated a certification program for Insider Threat professionals. USAGM's Insider Threat Program Manager is among the inaugural class of individuals awarded the Certified Counter-Insider Threat Professional-Fundamentals (CCITP-F) designation.

Accomplishments:

- Insider Threat Policy was signed by Interim Director and CEO Grant Turner in January 2020
- ITP established policy for travel briefings and required training for Agency personnel traveling overseas on official business
- Representatives for the Insider Threat "Hub", or working group, have been identified. Some hub members have attended the NITTF Hub Training Course, and others will be signed up once training classes are again offered.
- Insider Threat and Information Security have partnered to identify network activity and IT audits that will be conducted during Insider Threat inquiries. To advance this process the Director, NITTF Tech Team, is assisting with this joint activity.

***Please note that FY 2021 GOE funding is estimated to be \$530,000; however, SEC's estimated operational expenses exceed the overall budget by approximately \$255,500. It is assumed that additional funding will be provided through OMS or via a funding reimbursement program established in 2020.*

FINANCIAL SUMMARY GOE FUNDS FOR PSD OPERATIONS

FY 2021 GOE Financial Summary:

➤ Estimated FY 2021 Budget: **\$530,000**

Estimated Contractual Obligations/Project Costs:

➤ Preexisting Contractual Obligations: \$5,500
 ➤ Forecasted DCSA Inv Charges: \$720,000 (800 cases x avg. cost \$900)
 ➤ Budget Supplies \$30,000
 ➤ PSD Travel \$10,000
 ➤ CI Operational Costs \$10,000
 ➤ Insider Threat Operational Costs \$10,000
 ➤ SCIF Operations Costs TBD
 ➤ ClassNet TBD

Total FY 2021 GOE Budget Items **\$785,500**

Budget Differential FY 2021: **(\$255,500)**

FY 2022 GOE Financial Summary:

➤ Estimated budget: **\$530,000**

Estimated Contractual Obligations/Project Costs:

➤ Preexisting Contractual Obligations: \$405,500 (+ OFS contract)
 ➤ Forecasted DCSA Project Costs: \$741,600 (adj ann. increase)
 ➤ Budget Supplies \$30,000
 ➤ Travel PSD \$10,000
 ➤ CI Operational Costs \$10,000
 ➤ Insider Threat Operational Costs \$10,000
 ➤ SCIF Operations Costs TBD
 ➤ ClassNet TBD

Total GOE Budget Items **\$1,207,100**

GOE Budget Differential: **(\$677,100)**

have consequences for which the agency is currently unprepared. For instance, many BBG applicants are not native English speakers, and some apply in countries with limited technology. Security is anticipating applicants will need assistance understanding both the form and the e-QIP system. There is no consensus within the agency which office should provide that support (Security, Human Resources, Contracts, TSI, etc.), let alone a collaborative process to manage the transition.

Who's Who

- ❖ Peter Lagerberg, Chief of the Investigations and Adjudications Division: Acts as an adjudicator. Assigns completed investigations to adjudicators.
- ❖ Brenda McCormick: Manages the classified file room. Responsible for inputting all data into the case tracking system and ordering necessary checks for all investigations.
- ❖ Bernie Kotarski, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances. Assigns completed investigations to adjudicators.
- ❖ Drew Jansen, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances. Manages case control process, verifying if cases have all the necessary checks and investigations completed and ready for assignment to an adjudicator.
- ❖ Karan Wright, Investigator: Conducts personal interviews. Manages investigations for security approvals and clearances.
- ❖ Frances Hodge, Investigator and Adjudicator: Manages investigations for security approvals and clearances. Manages contract investigator program. Trained and eligible to adjudicate closed investigations when needed.
- ❖ Patricia Franklin, Adjudicator: Determines if an applicant is approved/cleared based on the information received in the investigation. Writes and manages OPM reconciliation reports. Completes clearance certifications for employees going to classified visits or to cleared meetings. Liaison with Metro PD for DC police checks.
- ❖ Paula Woodland, Adjudicator: Determines if an applicant is approved/cleared based on the information received in the investigation. Initiates requisitions for Physical Security Division.

Opportunities and Recommendations

Given the challenges that Security faces, there are several opportunities where processes can be streamlined or inefficiencies be addressed.

1. Identify all VOA bureaus and reporting centers that require physical security support from the Office of Security, as well as staff at those reporting centers who require security approvals by personnel security. Security only recently discovered that some services have correspondents and reporting centers abroad in addition to those maintained by the Newsroom. Right now, the agency lacks a clear mechanism for communicating additions or closures of filing centers and bureaus to Security. Some of these reporting centers will have staff in addition to the correspondents – these staff employed or contracted by VOA must also go through the security approval process. Further, the agency should evaluate if additional staff resources are necessary to maintain adequate physical security for the network of reporting centers. When BBG took over the security responsibility for bureaus abroad, Security received no additional staff to oversee security for VOA's existing bureaus. Now that the number of bureaus and reporting centers has roughly doubled, it is time to evaluate whether the current number of staff are capable of managing the expanded workload effectively.

2. BBG needs a plan for securing shared bureaus. Currently, Security does not oversee the physical security of grantee bureaus and reporting centers. As BBG moves to consolidate current bureaus or construct new shared bureaus, e.g. Kabul, the agency will need to consider the costs associated with larger spaces that potentially include greater compartmentalization when preparing budget requests.
3. Reevaluate current procedures for conducting investigations for all grantee staff. The MOU between BBG and the Department of State only requires that key personnel from the grantees have security clearances. The current procedures and standards for checking all grantee personnel have not been reevaluated in many years: the agency needs to reevaluate what types of checks are necessary for non-key grantee employees. Currently, grantee staff working at the various headquarters locations (DC, Prague, Springfield, Dubai) are vetted by Security, but it is unclear if all staff based in the field are subject to the same security scrutiny, and if they should be. The agency needs to determine which employees from the grantees are subject to security approvals. Then BBG needs to evaluate what resources would be necessary to conduct all required security approvals (federal and grantee) and determine if the Office of Security is the most cost effective entity to perform those investigations.
4. Assign Security a dedicated Administrative Officer. There are currently several people in the Office of Security who daily take on additional responsibility for budget projections, procurements, and other administrative functions to the detriment of their primary duties. The assigned AO in the Office of Analysis and Administration also works with Security on a daily basis. Assigning a designated AO will appropriately reflect the administrative workload in Security, as well as allow the limited staff in Security to focus on their primary responsibilities, many of which are delayed by administrative duties.
5. Coordinate the transition to new security forms among the offices dealing with applicants and new employees. The rollout of a new, more complicated SF-86 form and its eventual transition to a fully digital submission will affect Security, Human Resources, and the Office of Contracts. Consequently, the transition, particularly to e-QIP, will require active management and oversight to ensure that the deployments run smoothly and do not create further backlogs for personnel security. There is no consensus among these offices who should take the lead on managing these transitions, thus there is no plan for managing these transitions. A proposed solution is to make Human Resources responsible helping new employees, Contracts responsible for helping new contractors, and Security responsible for helping staff who are applying for recertification.
6. Ensure that the date on all SF-86 forms is the date that the applicant comes in to get fingerprinted and receive an ID card. Enforcing this date will require assistance and oversight from HR and Contracts, and it will curb the timeframe for the initiation phase of all approvals and clearances.
7. Eliminate the backlog of cases awaiting data entry. This backlog of more than 100 cases can easily be eliminated by offering overtime to current staff and/or hiring temporary staff for data entry. Reducing the time it takes to input applicant information into the database will curtail the total time for approvals and clearances dramatically. Additionally, Security should develop a system for prioritizing cases based on entity, prior clearances and reciprocity, and job function. With such delays for data entry, there is no way to speed the process by prioritizing cases.

Once the backlog is cleared, the data entry burden should be closely monitored to determine if additional staff are needed to keep up with the case load. Lastly, Security must anticipate and prepare for the effects of the new SF-86 and the transition to e-QIP on the data entry workload.

8. Streamline as many of the investigative procedures as possible. Security is working to automate education, employment, and court checks where possible. Additionally, Security will begin using email to check employment references, rather than sending a hardcopy by post, which will streamline the process. Finally, Security is considering changing its policy on conducting personal interviews: rather than conduct personal interviews with all foreign nationals, only interview foreign nationals who come from hostile countries. Each entity would be responsible for conducting the personal interviews for applicants as needed instead of the Office of Security.
9. Consider options for increasing the adjudication staff, who must be FTE's. Security is hoping to provide dual credentials for its FTE investigators and Adjudicators in order to assign the staff where the need is greatest. This would require additional training, but will increase the office's flexibility to address a fluid caseload.
10. Implement fastidious deadlines for the investigation period of all federal employee and contractor approvals and clearances. If Security does not see improvement in its timeliness, BBG runs the risk of losing delegated authority to conduct its own investigations. Without delegated authority, the investigative authority for all cases would go to OPM. However, having OPM conduct the investigations has several notable downsides. First, OPM meets its statutory deadlines by turning over whatever information is available after 40 days of investigation, which in no way guarantees that all of the information requested is actually available. Moreover, unlike BBG, OPM does not maintain agreements with intelligence agencies, so OPM investigations will be less thorough. Lastly, OPM costs more – for less tailored, less exhaustive checks. These factors indicate that it will be more cost effective to BBG in the long run to “game the system” in the same way as OPM by closing all investigations and beginning adjudication after 40 days no matter whether the checks are completed. As information comes in after the 40 day period, Security can re-adjudicate as needed. While reexamining cases may cause some inefficiency, that is only compared to operating without timelines – the same inefficiency would exist if OPM was requested and paid (they charge extra for this) to resolve any issues.

Attachment – 13

Drew,

Your email leads me to believe that you have a fundamental lack of understanding about my philosophy for running OMS, which by the way, includes the Office of Security. Simply stated, we support each other, we work as a team, and we are customer service oriented. Your opening sentence was disingenuous and disrespectful, and you carelessly copied a large contingent of VOA staff – our customers – leading them to believe that Nicholas was somehow freelancing, while the reality is quite the contrary. He has, at my direction, been working with you and your team, collegially, respectfully and with a great deal of patience. His efforts were fully and directly in support of your Office and its procedures and processes, with the singular goal of assisting in clarifying issues and attempting to field questions that would otherwise be directed to your staff – who you have repeatedly told me are overworked and can't take the time to run down every question that VOA or others may have about the process. I cannot understand why you would make such a statement given the process we've been engaged in for weeks on this issue.

You mention brown bag lunch briefings which I presume are the info sessions that Sabita and Nicholas have been collaborating on so we can begin to disseminate this information. I have been trying to get these set up for weeks and we would not be as far along as we currently are in scheduling these sessions, were it not for Nicholas' work with your staff.

If you don't want the involvement of my staff on this project, than you need to tell me. If this collaborative approach is not to your liking, I'm happy to simply issue tasks and set deadlines. Trust me, I have plenty of work for Nicholas, Chris and Dan to be doing that has nothing to do with Security, but as I've said before -- we work together to make projects a success and learn from each other along the way.

I hope to never see this kind of email (made all the more egregious by being sent to many of our clients) from you again. If you don't like the way something is going, you need to come to me or Chris before you hit the send button.

Attachment – 14

Policies and Procedures

Agencies are responsible for establishing structure for the security and suitability program and providing guidance to ensure compliance with applicable laws, regulations and OPM issuance.

We reviewed the following BBG internal policies and procedures, which were provided by SEC staff:

- MOU between U.S. Office of Personnel Management and Broadcasting Board of Governors for Delegated Investigative Authority for Competitive Service Positions, dated December 13, 2010
- MOU between U.S. Office of Personnel Management Federal Investigative Services and International Broadcasting Bureau (IBB), Broadcasting Board of Governors (BBG) for Electronic Questionnaires for Investigations Processing (e-QIP), dated February 28, 2013
- Agreement between the Broadcasting Board of Governors and the Bureau of Management, United States Information Agency, no date provided
- MOU between the Department of State and the Broadcasting Board of Governors concerning overseas security support, dated May 15, 2001
- Policy and Procedures for a Common Identification Standard for the Broadcasting Board of Governors, dated October 27, 2005
- Broadcasting Board of Governors Security Manual, Untitled, no date provided

During the course of our review, we determined BBG is operating without the proper delegated authority. The 2010 MOU for Delegated Investigative Authority was valid for two years, and expired in December, 2012. When we asked the SEC Chief about the existence of any current MOUs, he stated OPM staff did not provide an updated version for signature, and told him the 2010 MOU was automatically renewed and remained in effect.

However, we found that OPM sent an MOU to BBG in January 2013. BBG asked for modifications to the signature block and requested the omission of the requirement to use eQIP. OPM updated the signature block and provided an explanation to BBG regarding the eQIP requirement. The updated MOU was emailed directly to the SEC Chief in April 2013, and again in June 2013. BBG did not sign and return the MOU to OPM as required.⁴⁶ Therefore, BBG has been operating without the proper delegated authority since December 2012.

⁴⁶ OPM's Policy Group provided the original updated MOU, which was delivered to BBG on January 10, 2013. On March 12, 2013, the Senior Personnel Security Specialist confirmed receipt of the MOU. The SEC Chief requested

Attachment – 15

Peter Lagerberg

From: Marie Lennon
Sent: Tuesday, November 10, 2015 10:54 AM
To: Mari.Hughes@opm.gov; Gary M Novotny (GARYMN@dni.gov)
Cc: Frederick Lang; Carroll Ellis Cobb; John Welch; Peter Lagerberg; Elizabeth Parish; Joy Bogans
Subject: Responses to Recommendations from BBG Review
Attachments: OPM and ODNI Response Nov 2015.docx

MEMO FOR: Mari Hughes, OPM Agency Oversight Chief Inspector
Gary Novotny, ODNI Assessments Program Manager

SUBJECT: Responses to Review of the BBG Personnel Security and Suitability Program

Dear Ms. Hughes and Mr. Novotny,

Thank you for the draft report on the joint program review of the Broadcasting Board of Governors (BBG) suitability and security program and the opportunity to review and provide comments and corrections.

The BBG has found the report very helpful. We appreciate and with some minor exceptions agree with the Report's recommendations. We are taking immediate steps to implement those recommendations and have already done so in some cases.

We believe most of the problems identified in the Report were the result of poor documentation and record keeping rather than problems that directly weakened the National Security. Accordingly, we would ask that the following sentence:

Based on our assessment, we conclude the deficiencies in BBG's program do not promote the efficiency of the service and are inconsistent with the interests of, or directly or indirectly weaken, the National Security.

be rephrased as:

Based on our assessment, we conclude the deficiencies in BBG's program do not promote the efficiency of the service and need to be addressed to enhance National Security.

Our specific responses to the Report recommendations are attached.

We would welcome the opportunity to discuss this matter further. Please contact Fred Lang (flang@bbg.gov) if you have any questions.

With thanks and kind regards,
Marie Lennon

Marie Lennon
Chief of Staff
International Broadcasting Bureau
Broadcasting Board of Governors
(202) 203-4515 [office]
(202) 359-8208 [mobile]
mlennon@bbg.gov

Attachment – 16



Broadcasting Board of Governors
United States of America

May 29, 2018

Honorable Jeff T.H. Pon
Director
U.S. Office of Personnel Management
1900 E Street N.W.
Washington, D.C. 20415-0001

Dear Director, Pon:

This is a request for the renewal of an existing agreement for a delegation of investigative authority pursuant to 5 CFR 731.103(a) and 736.201(b).

On December 13, 2010, representatives of our respective agencies signed a Memorandum of Understanding and Agreement (MOU) delegating authority to the Broadcasting Board of Governors (BBG) to conduct background investigations for a period of two-years (copy attached). The period of the agreement has lapsed and requires written approval/renewal.

Please note, the BBG requested and received a renewal of the aforementioned MOU, which expired December 13, 2012, on or about September 30, 2012 (copy attached); however, due to an administrative error the document was never signed nor returned to the Office of Personnel Management for implementation. This oversight was never disclosed by the official overseeing the process and was not discovered until August 2017 (see attached email). Since that time BBG has attempted to work with OPM personnel in an effort to rectify the issue.

It is requested that our current submission for delegated authority be positively received and ratified. It should be noted, that safeguards have been instituted to inhibit reoccurrences of this type in the future.

Should you have any questions, please feel free to contact Andrew Jansen, Director, Office of Security at (202) 382-7789.

Sincerely,

Jeffrey Trimble
Deputy Director
Broadcasting Board of Governors



Jeffrey Trimble

Broadcasting Board of Governors
United States of America

May 29, 2018

The Honorable Daniel Coats
Director of National Intelligence
Washington, D.C. 20511

Dear Director Coats:

This is a request for the renewal of an existing agreement for a delegation of investigative authority pursuant to Executive Orders (EO) 12968 and 13467.

On December 13, 2010, representatives of the Office of Personnel Management (OPM) and the Broadcasting Board of Governors (BBG) signed a Memorandum of Understanding and Agreement (MOU) delegating authority to the BBG to conduct background investigations, pursuant to EO 10450 and 5 Code of Federal Regulations (CFR) 736.201(b), for a period of two-years (copy attached). The period of the agreement has lapsed and requires written approval/renewal.

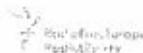
Please note, the BBG requested and received a renewal of the aforementioned MOU, which expired December 13, 2012, on or about September 30, 2012 (copy attached); however, due to an administrative error the document was never signed nor returned to OPM for implementation. This oversight was never disclosed by the official overseeing the process and was not discovered until August 2017. Since that time the BBG has attempted to work with OPM personnel in an effort to rectify the issue.

It is requested that our current submission for delegated authority be positively received and ratified. It should be noted, that safeguards have been instituted to inhibit reoccurrences of this type in the future.

Should you have any questions, please feel free to contact Andrew Jansen, Director, Office of Security, at (202) 382-7789.

Sincerely,

Jeffrey Trimble
Deputy Director
Broadcasting Board of Governors



Attachment – 17

Andrew M. Jansen

From: Marie Lennon
Sent: Thursday, June 7, 2018 6:49 PM
To: Andrew M. Jansen; Nicholas Fechter
Subject: FW: Security Investigatory Redelegation
Attachments: Letter to OPM re Investigative Redelegation.DOC

FYI and appropriate follow-up. Thanks.

From: Marie Lennon
Sent: Wednesday, May 30, 2018 7:36 PM
To: David Kligerman <dkligerman@bbg.gov>
Subject: Security Investigatory Redelegation

David,

Attached, for your review, is a draft memo to the Director of OPM regarding BBG's Delegation of Investigative Authority. The purpose of this letter to the Director of OPM is to start the process of re-formalizing BBG's MOU for delegated authority. We are addressing the Director of OPM, as per verbal guidance we received from the Director of OPM's Suitability Executive Agent Programs, Lisa Loss. BBG's most recent MOU for Delegated Investigative Authority was last signed in 2010 and was effective through 2012. Since then, BBG has continued background investigations with the understanding that the delegated authority was on-going, and OPM has continued to recognize our background investigations despite not having an MOU in place.

If you have any questions regarding further details please feel free to reach out directly to Drew Jansen or to me.

Thanks,
Marie

Marie Lennon
Director of Management Services
Broadcasting Board of Governors
Office: 202-203-4504
Mobile: 202-359-8208
mlennon@bbg.gov



Attachment 11

Pssst....On August 22nd the Broadcasting Board of Governors changed to the U.S. Agency for Global Media (USAGM). Beginning October 1st, my email will change to nfechter@usagm.gov

From: Marie Lennon
Sent: Wednesday, June 20, 2018 7:37 PM
To: Andrew M. Jansen <amjansen@bbg.gov>
Cc: Nicholas Fechter <nfechter@bbg.gov>
Subject: RE: Grantee Protocol for Background Checks

Drew,

I would like you to contact Dave directly to discuss this and the memo to OPM re authority to conduct investigations. Please keep me informed.

Thanks,
Marie

From: Andrew M. Jansen
Sent: Wednesday, June 20, 2018 9:03 AM
To: Marie Lennon <mlennon@bbg.gov>
Cc: Nicholas Fechter <nfechter@bbg.gov>
Subject: Fwd: Grantee Protocol for Background Checks

Marie,

As you know, I sent the attached thread to David on June 8 and I stand by these comments. I feel that an initial work product can be produced by the three men mentioned that may satisfy the EU requirements. If they would like assistance, I can sit in.

The IG issue is a whole different animal, which will require a bit of give and take from SEC, OGC, BBG and the Grantees along with a decision from OPM. In relation to OPM's decision, OGC must push our letter for delegated authority. I know that some believe that this is a non-issue; however, not having that authority may limit my ability to deal with OPM directly. Additionally, it would be very helpful if the process to regain our delegated authority was in process before we receive the initial SNAP inspection results which will note the issue and demand an immediate remedy. Let me know if you'd like me to speak with David directly or if you wish to deal with the issue.

As a reminder, I am traveling with Frances today to OPM's record repository in Boyer's, PA. We will attend meetings on Thursday and return to DC Thursday night. Tom is holding down the fort in DC.

I'll have my phone/email if you wish to communicate.

Have a great day.

Andrew M. Jansen

From: Andrew M. Jansen
Sent: Tuesday, June 26, 2018 4:42 PM
To: David Kligerman
Subject: OCB Director Issue

David,

Two things:

Has any information been provided to the OCB Director concerning the use of his wife in the office? I need to make a decision whether/when I head down there to take corrective action.

The second thing deals with the OPM/ODNI delegated authority letters that are under your review. Would you please let me know where we are at related to this issue. I need to get those delivered to assist with mitigation efforts with OPM.

Ok, maybe one more: Lastly, there was a second submission related to our EQIP MOU with NBIB/MOU that I sent a few weeks ago to you for OGC review. I need to get that back ASAP, as I'm trying to right the ship here in SEC. please let me know.

Thanks for your assistance,

Drew

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Andrew M. Jansen

From: Andrew M. Jansen
Sent: Monday, July 2, 2018 8:01 PM
To: David Kiigerman
Subject: Touching Base

David,

I'm scheduling a teleconference with key people in OPM to discuss delegated authority issues. Before I do this, I need to know where we are with the letters requesting the reissuance of this authority. Please let me know as soon as possible.

Thanks,

Drew Jansen

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Andrew M. Jansen

From: Andrew M. Jansen
Sent: Friday, July 6, 2018 9:07 AM
To: David Kligerman
Subject: Still require information

David,

Has any information been provided to the OCB Director concerning the use of his wife in the office? I need to make a decision whether/when someone heads down there to take corrective action.

Concerning the OPM/ODNI delegated authority letters that are under OGC review, would you please let me know where we are related to this issue. I need to get those letters delivered to initiate mitigation efforts with the OPM Suitability Executive Agent.

Concerning our EQIP MOU with NBIB/OPM that I sent a few weeks ago for OGC review, I need that agreement reviewed/approved ASAP. EQIP is one of our major OPM components and we cannot risk losing that function. Please advise.

Lastly, have the concerns broached by RFE concerning the legality of transmitting PII background investigative information from RFE to BBG been discussed/remedied? After meeting with RFE Chief of Staff, serious questions remain unanswered. I was hoping that you and your RFE counterparts could work this out expeditiously. Would you please advise where this situation is or whether change is necessary on our end concerning how we handle RFE cases in the future.

In short, I know you are short staffed, but the information requested is critically important when it comes to the overall function of SEC as well as how we should handle issues related to OCB and RFE. Please let me know as soon as possible the information requested.

Thanks,

Drew

et Outlook for iOS

Andrew M. Jansen

From: Andrew M. Jansen
Sent: Friday, July 6, 2018 6:57 PM
To: David Kligerman
Subject: Re: Still require information

Ok

Get Outlook for iOS

From: David Kligerman
Sent: Friday, July 6, 2018 6:55:10 PM
To: Andrew M. Jansen
Subject: Re: Still require information

Sorry. Stuck with interviews all day. Let's talk on Monday. Thanks, Dave
On Jul 6, 2018, at 10:43 AM, Andrew M. Jansen <amjansen@bbg.gov> wrote:

Great, Call me when you can talk. 202-329-0038.
Thanks,
Drew

Get Outlook for iOS

From: David Kligerman <dkligerman@bbg.gov>
Sent: Friday, July 6, 2018 9:16 AM
To: Andrew M. Jansen
Subject: Re: Still require information

*Spoke w/ Dave -
7/10 - will finalize letters
and move 7/10
DK*

Ok. Let's try and chat later today. Thanks

Sent from my iPhone

On Jul 6, 2018, at 9:06 AM, Andrew M. Jansen <amjansen@bbg.gov> wrote:

David,

Has any information been provided to the OCB Director concerning the use of his wife in the office? I need to make a decision whether/when someone heads down there to take corrective action.

Concerning the OPM/ODNI delegated authority letters that are under OGC review, would you please let me know where we are related to this issue. I need to get those letters delivered to initiate mitigation efforts with the OPM Suitability Executive Agent.

Concerning our EQIP MOU with NBIB/OPM that I sent a few weeks ago for OGC review, I need that agreement reviewed/approved ASAP. EQIP is one of our major OPM components and we cannot risk losing that function. Please advise.

Andrew M. Jansen

From: Andrew M. Jansen
Sent: Wednesday, August 1, 2018 9:07 PM
To: David Kligerman
Subject: Letters

David,

I've been traveling over the last two weeks, and now headed home. I wanted to check and determine whether those delegated authority letters had passed muster. Please let me know if the review was complete and the location of the reviewed letters.

Thanks,

Drew

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Andrew M. Jansen

From: Andrew M. Jansen
Sent: Tuesday, August 7, 2018 2:14 PM
To: David Kligerman
Subject: Checking Back

David,
Has there been any movement on the approval of the delegated authority letters and the OPM MOU? Also, has anything been started related to the RFE issue related to European law?
Thanks for checking,
Drew

Andrew M. Jansen, Director
Office of Security
Broadcasting Board of Governors
International Broadcasting Bureau
Voice: (202) 382-7789
Fax: (202) 382-7794
amjansen@bbg.gov

Andrew M. Jansen

From: Nicholas Fechter
Sent: Thursday, August 30, 2018 8:00 PM
To: Andrew M. Jansen
Subject: Re: Grantee Protocol for Background Checks

Truer words. Thanks for your time and patience today. Always appreciated!

Best,

Nicholas Fechter
Management and Program Analyst
Office of Management Services
o: 202.382.5248

From: Andrew M. Jansen
Sent: Thursday, August 30, 2018 7:47:32 PM
To: Nicholas Fechter
Subject: Re: Grantee Protocol for Background Checks

Old story, new day! Thanks for the assist.
D

Get Outlook for iOS

From: Nicholas Fechter <nfechter@bbg.gov>
Sent: Thursday, August 30, 2018 1:50 PM
To: Andrew M. Jansen
Cc: Marie Lennon
Subject: FW: Grantee Protocol for Background Checks

Drew,

Hey man, I just caught Kligerman on the phone for all of 13 seconds. He seemed to not have revisited your letters in some time. I'm hoping pinging him will prod him into action. If you email him and I keep bothering him, maybe he'll move on this. I reminded him that we all believed the letters were ready to go, and that they just needed Lansing's signature.

Best,

Nicholas Fechter
Management and Program Analyst
Office of Management Services
United States Agency for Global Media (USAGM)
O: 202.382.5248

From: David Kligerman
Sent: Thursday, September 27, 2018 10:05 AM
To: Andrew M. Jansen
Cc: Marie Lennon; Lillian Cheng
Subject: Re: OPM/ODNI Delegated Authority Letters

+ Lillian

Got it. Let me read Lillian (the new Deputy GC) into this this week and she can finalize pretty quickly I'm sure.

Thanks for your patience.

Dave

Sent from my iPhone

On Sep 20, 2018, at 8:11 AM, Andrew M. Jansen <amjansen@bbg.gov> wrote:

David,

I know that you've been busy with hiring processes, but I need to remind you that the Office of Security requires the finalization of the letters requesting delegated authority from OPM and ODNI. The letters transferred to your office for approval/signature in May/June 2018; however, I have not received a response concerning either content or signature authority. Without reestablishing our delegated authority with both agencies, the USAGM risks the permanent revocation of our investigative privilege. Moreover, the absence of authority brings into question our ability to process cases, initiate removal actions, and communicate findings to oversight agencies.

This issue has far reaching implications and places the agency in an unenviable position when it comes to the legal defense of actions initiated by the Office of Security. Assigned personnel and/or unions could use the lack of delegated authority as a defense against removal orders thus creating serious internal risk for an agency that hosts purely national security positions. While the Office of Security strives to provide a strong personnel and physical security program, indecision concerning this issue weakens our overall ability to provide baseline services and therefore risks the protection of assigned personnel. Knowing that the loss of our authority to conduct personnel investigations is not an agency priority, would you please make the processing of these letters a priority for your office?

Thanks,

Drew

<image001.png>

Andrew Jansen
Director, Office of Security
O: 202-382-7789
F: 202-382-7794

U.S. Agency for Global Media | Broadcasting Board of Governors

330 Independence Ave. SW | Washington, DC 20237

<http://usagm.gov>

FYI: On August 22nd, 2018, the Broadcasting Board of Governors (BBG) changed its name to the U.S. Agency for Global Media (USAGM). Beginning October 1, 2018, my email address will change to amjansen@usagm.gov.

Attachment – 18

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

E.O. 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E.O. 12988, Civil Justice Reform

This rule meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 5 CFR Part 1400

Administrative practices and procedures, Classified information, Government employees, Investigations.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director, Office of the Director of National Intelligence.

James R. Clapper, Jr.,

Director.

Accordingly, OPM and ODNI amend title 5, Code of Federal Regulations, by establishing chapter IV, consisting of part 1400, to read as follows:

Chapter IV—Office of Personnel Management and Office of the Director of National Intelligence

PART 1400—DESIGNATION OF NATIONAL SECURITY POSITIONS

Subpart A—Scope

Sec.

1400.101 Purpose.

1400.102 Definitions and applicability.

1400.103 Implementation.

Subpart B—Designation and Investigative Requirements

1400.201 Sensitivity level designations and investigative requirements.

1400.202 Waivers and exceptions to preappointment investigative requirements.

1400.203 Periodic reinvestigation requirements.

1400.204 Reassessment of current positions.

1400.205 Savings provision.

Subpart C—Procedural Rights and Reporting

1400.301 Procedural rights.

1400.302 Reporting to OPM.

Authority: 5 U.S.C. 1103(a)(5), 3301, 3302, 7312; 50 U.S.C. 3023, 3341; E.O. 10450, 3 CFR, 1949–1953 Comp., p. 936; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 12968, 3 CFR, 1995 Comp., p. 391; E.O. 13467, 3 CFR, 2008 Comp., p. 196; 3 CFR, 2013 Comp., p. 358.

Subpart A—Scope

§ 1400.101 Purpose.

(a) This part sets forth certain requirements and procedures which each agency shall observe for determining national security positions pursuant to Executive Order 10450—Security Requirements for Government Employment (April 27, 1953), 3 CFR 1949–1953 Comp., p. 936.

(b) All positions must be evaluated for a position sensitivity designation commensurate with the responsibilities and assignments of the position as they relate to the impact on the national security, including but not limited to eligibility for access to classified information.

§ 1400.102 Definitions and applicability.

(a) In this part—

(1) *Critical infrastructures* are systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(2) *Key resources* are publicly or privately controlled resources essential to the minimal operations of the economy and government.

(3) *National security* refers to those activities which are directly concerned with the foreign relations of the United States, or protection of the Nation from internal subversion, foreign aggression, or terrorism.

(4) *National security position* includes any position in a department or agency, the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security.

(i) Such positions include those requiring eligibility for access to classified information.

(ii) Other such positions include, but are not limited to, those whose duties include:

(A) Protecting the nation, its citizens and residents from acts of terrorism, espionage, or foreign aggression, including those positions where the occupant's duties involve protecting the nation's borders, ports, critical infrastructure or key resources, and where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(B) Developing plans or policies related to national defense or military operations;

(C) Planning or conducting intelligence or counterintelligence activities, counterterrorism activities and related activities concerned with the preservation of the military strength of the United States;

(D) Protecting or controlling access to facilities or information systems where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(E) Controlling, maintaining custody, safeguarding, or disposing of hazardous materials, arms, ammunition or explosives, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(F) Exercising investigative or adjudicative duties related to national security, suitability, fitness or identity credentialing, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(G) Exercising duties related to criminal justice, public safety or law enforcement, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security; or

(H) Conducting investigations or audits related to the functions described in paragraphs (a)(4)(ii)(B) through (G) of this section, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

Interim next 12

(b) The requirements of this part apply to positions in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and Senior Executive Service (SES) positions held by career appointees in the SES within the executive branch. Departments and agencies may apply the requirements of this part to other excepted service positions within the executive branch and contractor positions, to the extent consistent with law.

§ 1400.103 Implementation.

OPM and the Security Executive Agent designated pursuant to Executive Order 13467 or any successor order may set forth policies, general procedures, criteria, standards, quality control procedures, and supplementary guidance for the implementation of this part.

Subpart B—Designation and Investigative Requirements

§ 1400.201 Sensitivity level designations and investigative requirements.

(a) For purposes of this part, the head of each agency must designate, or cause to be designated, a position within the department or agency as a national security position pursuant to § 1400.102(a). National security positions must then be designated, based on the degree of potential damage to the national security, at one of the following three sensitivity levels:

– (1) Noncritical-Sensitive positions are national security positions which have the potential to cause significant or serious damage to the national security, including but not limited to:

(i) Positions requiring eligibility for access to Secret, Confidential, or “L” classified information; or

(ii) Positions not requiring eligibility for access to classified information, but having the potential to cause significant or serious damage to the national security.

– (2) Critical-Sensitive positions are national security positions which have the potential to cause exceptionally grave damage to the national security, including but not limited to:

(i) Positions requiring eligibility for access to Top Secret or “Q” classified information;

(ii) Positions not requiring eligibility for access to classified information, but having the potential to cause exceptionally grave damage to the national security;

(iii) Positions involving development or approval of war plans, major or special military operations, or critical and extremely important items of war;

(iv) National security policy-making or policy-determining positions;

(v) Positions with investigative duties, including handling of completed counterintelligence or background investigations, the nature of which have the potential to cause exceptionally grave damage to the national security;

(vi) Positions involving national security adjudicative determinations or granting of personnel security clearance eligibility;

(vii) Positions involving duty on personnel security boards;

(viii) Senior management positions in key programs, the compromise of which could result in exceptionally grave damage to the national security;

– (ix) Positions having direct involvement with diplomatic relations and negotiations;

(x) Positions involving independent responsibility for planning or approving continuity of Government operations;

(xi) Positions involving major and immediate responsibility for, and the ability to act independently without detection to compromise or exploit, the protection, control, and safety of the nation’s borders and ports or immigration or customs control or policies, where there is a potential to cause exceptionally grave damage to the national security;

(xii) Positions involving major and immediate responsibility for, and the ability to act independently without detection to compromise or exploit, the design, installation, operation, or maintenance of critical infrastructure systems or programs;

(xiii) Positions in which the occupants have the ability to independently damage public health and safety with devastating results;

(xiv) Positions in which the occupants have the ability to independently compromise or exploit biological select agents or toxins, chemical agents, nuclear materials, or other hazardous materials;

(xv) Positions in which the occupants have the ability to independently compromise or exploit the nation’s nuclear or chemical weapons designs or systems;

(xvi) Positions in which the occupants obligate, expend, collect or control revenue, funds or items with monetary value in excess of \$50 million, or procure or secure funding for goods and/or services with monetary value in excess of \$50 million annually, with the potential for exceptionally grave damage to the national security;

(xvii) Positions in which the occupants have unlimited access to and control over unclassified information, which may include private, proprietary

or other controlled unclassified information, but only where the unauthorized disclosure of that information could cause exceptionally grave damage to the national security;

(xviii) Positions in which the occupants have direct, unrestricted control over supplies of arms, ammunition, or explosives or control over any weapons of mass destruction;

(xix) Positions in which the occupants have unlimited access to or control of access to designated restricted areas or restricted facilities that maintain national security information classified at the Top Secret or “Q” level;

(xx) Positions working with significant life-critical/mission-critical systems, such that compromise or exploitation of those systems would cause exceptionally grave damage to essential Government operations or national infrastructure; or

(xxi) Positions in which the occupants conduct internal and/or external investigation, inquiries, or audits related to the functions described in paragraphs (a)(2)(i) through (xx) of this section, where the occupant’s neglect, action, or inaction could cause exceptionally grave damage to the national security.

– (3) Special-Sensitive positions are those national security positions which have the potential to cause inestimable damage to the national security, including but not limited to positions requiring eligibility for access to Sensitive Compartmented Information (SCI), requiring eligibility for access to any other intelligence-related Special Sensitive information, requiring involvement in Top Secret Special Access Programs (SAP), or positions which the agency head determines must be designated higher than Critical-Sensitive consistent with Executive order.

(b) OPM and ODNI issue, and periodically revise, a Position Designation System which describes in greater detail agency requirements for designating positions that could bring about a material adverse effect on the national security. Agencies must use the Position Designation System to designate the sensitivity level of each position covered by this part. All positions receiving a position sensitivity designation under this part shall also receive a risk designation under 5 CFR part 731 (see 5 CFR 731.106) as provided in paragraphs (c) and (d) of this section.

(c) Any position receiving a position sensitivity designation under this part at the critical-sensitive or special-sensitive level shall automatically carry with that designation, without further agency

action, a risk designation under 5 CFR 731.106 at the high level.

(d) Any position receiving a position sensitivity designation at the noncritical-sensitive level shall automatically carry with that designation, without further agency action, a risk designation under 5 CFR 731.106 at the moderate level, unless the agency determines that the position should be designated at the high level. Agencies shall designate the position at the high level where warranted on the basis of criteria set forth in OPM issuances as described in § 731.102(c) of this title.

§ 1400.202 Waivers and exceptions to preappointment investigative requirements.

(a) *Waivers*—(1) *General*. A waiver of the preappointment investigative requirement contained in section 3(b) of Executive Order 10450 for employment in a national security position may be made only for a limited period:

(i) In case of emergency if the head of the department or agency concerned finds that such action is necessary in the national interest; and

(ii) When such finding is made a part of the records of the department or agency.

(2) *Specific waiver requirements*. (i) The preappointment investigative requirement may not be waived for appointment to positions designated Special-Sensitive under this part.

(ii) For positions designated Critical-Sensitive under this part, the records of the department or agency required by paragraph (a)(1) of this section must document the decision as follows:

(A) The nature of the emergency which necessitates an appointment prior to completion of the investigation and adjudication process;

(B) A record demonstrating the successful initiation of the required investigation based on a completed questionnaire; and

(C) A record of the Federal Bureau of Investigation fingerprint check portion of the required investigation supporting a preappointment waiver.

(iii) When a waiver for a position designated Noncritical-Sensitive is granted under this part, the agency head will determine documentary requirements needed to support the waiver decision. In these cases, the agency must favorably evaluate the completed questionnaire and expedite the submission of the request for an investigation at the appropriate level.

(iv) When waiving the preappointment investigation requirements, the applicant must be notified that the preappointment decision was made based on limited

information, and that the ultimate appointment decision depends upon favorable completion and adjudication of the full investigative results.

(b) *Exceptions to investigative requirements*. Pursuant to section 3(a) of E.O. 10450, upon request of an agency head, the Office of Personnel Management may, in its discretion, authorize such less investigation as may meet the requirement of national security with respect to:

(1) Positions that are intermittent, seasonal, per diem, or temporary, not to exceed an aggregate of 180 days in either a single continuous appointment or series of appointments; or

(2) Positions filled by aliens employed outside the United States.

(c) *Applicability*. This section does not apply to:

(1) Investigations, waivers of investigative requirements, and exceptions from investigative requirements under 42 U.S.C. 2165(b);

(2) Investigative requirements for eligibility for access to classified information under Executive Order 12968; or

(3) Standards for temporary eligibility for access to classified information established by the Security Executive Agent pursuant to section 3.3(a)(2) of Executive Order 12968.

§ 1400.203 Periodic reinvestigation requirements.

(a) The incumbent of a national security position requiring eligibility for access to classified information is subject to the reinvestigation requirements of E.O. 12968.

(b) The incumbent of a national security position that does not require eligibility for access to classified information is subject to periodic reinvestigation at least once every five years. Such reinvestigation must be conducted using a national security questionnaire, and at a frequency and scope that will satisfy the reinvestigation requirements for both national security and public trust positions.

§ 1400.204 Reassessment of current positions.

(a) Agency heads must assess each position covered by this part within the agency using the standards set forth in this regulation as well as guidance provided in OPM issuances to determine whether changes in position sensitivity designations are necessary within 24 months of July 6, 2015.

(b) Where the sensitivity designation of the position is changed, and requires a higher level of investigation than was previously required for the position,

(1) The agency must initiate the investigation no later than 14 working days after the change in designation; and

(2) The agency will determine whether the incumbent's retention in sensitive duties pending the outcome of the investigation is consistent with the national security.

(c) Agencies may provide advance notice of the redesignation of a position to allow time for completion of the forms, releases, and other information needed from the incumbent to initiate the investigation.

(d) Agencies may request an extension, pursuant to guidance issued jointly by OPM and ODNI, of the timeframe for redesignation of positions or initiation of reinvestigations, if justified by severe staffing, budgetary, or information technology constraints, or emergency circumstances.

§ 1400.205 Savings provision.

No provision of the rule in this part may be applied to make an adverse inference in pending administrative proceedings. However, the redesignation of a position may require that the occupant of that position undergo a new adjudication. An administrative proceeding is deemed to be pending from the date of the agency or OPM notice described in § 1400.301(c)(1).

Subpart C—Procedural Rights and Reporting

§ 1400.301 Procedural rights.

When an agency makes an adjudicative decision based on an OPM investigation or an investigation conducted under an OPM delegation of authority, or when an agency, as a result of information in such an investigation, changes a tentative favorable placement or clearance decision to an unfavorable decision, the agency must comply with all applicable administrative procedural requirements, as provided by law, rule, regulation, or Executive order, including E.O. 12968, and the agency's own procedural regulations, and must:

(a) Ensure that the records used in making the decision are accurate, relevant, timely, and complete to the extent reasonably necessary to assure fairness to the individual in any determination;

(b) Consider all available, relevant information in reaching its final decision; and

(c) At a minimum, subject to requirements of law, rule, regulation, or Executive order:

(1) Provide the individual concerned notice of the specific reason(s) for the

decision, an opportunity to respond, and notice of appeal rights, if any; and

(2) Keep any record of the agency action required by OPM as published in its issuances.

§ 1400.302 Reporting to OPM.

(a) Each agency conducting an investigation under E.O. 10450 is required to notify OPM when the

investigation is initiated and when it is completed.

(b) Agencies must report to OPM an adjudicative determination and action taken with respect to an individual investigated pursuant to E.O. 10450 as soon as possible and in no event later than 90 days after receipt of the final report of investigation.

(c) To comply with process efficiency requirements, additional data may be collected from agencies conducting investigations or taking action under this part. These collections will be identified in separate OPM and ODNI guidance, issued as necessary under § 1400.103.

[FR Doc. 2015-13438 Filed 6-4-15; 8:45 am]

BILLING CODE 9500-01-6325-39-P

Attachment – 19

December 19, 2016

MEMORANDUM TO: OMS – Marie Lennon
VIA: OMS/SEC – Fred Lang
FROM: OMS/SEC – Andrew Jansen
SUBJECT: Reassessment of Agency Positions

SYNOPSIS:

On July 6, 2015, 5 CFR 1400 was released which delineated requirements dealing with position designation and the corresponding investigative requirements. Included therein, were the requirements and procedures, which each agency must observe when identifying national security positions pursuant to Executive Order (EO) 10450 (appended as Attachment 1). The Federal Regulation mandates, "...the head of each agency **must** designate, or cause to be designated, a position within the department or agency as a national security position pursuant to EO 1400.102(a)." The order then defines "national security position" and explains the implementation and use of the Position Designation System (PDS) and the Position Designation Tool (PDT). Ultimately, 5 CFR 1400, requires the assessment or reassessment of all Agency positions utilizing the standards set forth in the regulation within 24 months of July 6, 2015. A copy of 5 CFR 1400 is appended as Attachment 2.

The proper implementation of 5 CFR 1400 requires coordination throughout the Agency, to include a mandate issued by the Director/Chief Executive Officer of the Broadcasting Board of Governors (BBG). In response to the appropriate order, the Office of Human Resources (OHR), in coordination with the Office of Security (BBG/SEC), will evaluate the sensitivity level of each Agency position and thereafter assign the proper investigative requirements.

BACKGROUND:

The Broadcasting Board of Governors became an independent, autonomous entity responsible for all US Government and Government-sponsored nonmilitary, international broadcasting, by authority of the Foreign Affairs Reform and Restructuring Act of 1998, on October 1, 1999. The BBG encompasses all US international broadcasting services, but the day-to-day broadcasting activities are carried out by the individual BBG international broadcasters: the Voice of America, Radio Free Asia, Radio Free Europe, Middle East Broadcasting Networks, and the Office of Cuba Broadcasting.

As a Federal entity, the BBG must comply with applicable statutes, Federal Regulations, and Executive Orders (EO), to include all mandates involving personnel security requirements. The BBG/SEC conducts personal security operations, having received delegated authority to perform this function from the Office of Personnel Management (OPM) and the Office of the Director of National Intelligence (ODNI). Since its inception, BBG/SEC has consistently provided security service that conform to OPM/ODNI standards, as periodic oversight inspections have continually outlined.

As oversight agents, OPM and ODNI have periodically conducted audits of operational activities related to the security services provided by BBG/SEC. These audits review all aspects of the personnel security program and identify deficiencies for corrective action. Referencing the OPM audit of BBG/SEC, dated October 30, 2006, several deficiencies were noted that included issues as simplistic as the utilization of an outdate adjudicator's manual to more complicated issues involving the misidentification of investigative levels based on a failure to properly identify position sensitivity within the agency. This particular deficiency read as follows:

The IBB Office of Security will work with OPM Fisd and the Office of Personnel to review IBB policies on position sensitivity designation and ensure that they are properly indicated on the PD and reconciled with OF-8.

In 2015, BBG/SEC was again audited by the OPM/ODNI. The subsequent report of review identified several deficiencies/recommendations that were listed, in order of importance. Listed as the first, and most important deficiency, was BBG's failure to properly classify the position sensitivity of each position within the Agency. Also related within the report was the warning, "Failure to correct these deficiencies by the stated deadlines may result in the revocation of delegated investigative authority." The identified deficiency read as follows:

Designation of Position Risk and Sensitivity

- Ensure staff designating covered positions are properly trained in using the OPM Position Designation Tool
- Ensure that all covered positions are correctly designated using the OPM PDT (Position Designation Tool), as required by current policy
- Ensure a Position Designation Record (PDR) or equivalent is maintained for all covered positions
- Ensure Office of Human Resources communicates all internal personnel changes with Office of Security staff and that personnel with position changes are investigated appropriately
- Request the proper investigation according to what is required by the PDT

In answering this deficiency, and like deficiencies from earlier evaluations, BBG/SEC countered that the Agency had received authorization from OPM to classify all positions within the Agency as sensitive, thus each position was identified correctly as a national security position. This statement was made even though neither BBG/SEC nor OPM could produce evidence of such an agreement.

In 2016, the Agency become involved in a civil action concerning the Agency's broad utilization of the SF-86. During the course of this action, the BBG Office of the General Counsel (OGC) utilized a letter from OPM to the US Information Agency's (USIA) Office of Security (the predecessor to BBG/SEC), dated April 30, 1991, as evidence to prove the legitimacy of BBG/SEC's use of the SF-86 security document as a foundation for all Agency security investigations **[It should be noted that the SF-86 could/can only be utilized for the investigation of personnel assigned to national security positions]**. The letter (appended as Attachment 3), was sent by OPM in response to two letters (appended as Attachment 4a and b) previously sent to OPM by USIA, which expressed concern regarding proposed changes in OPM's definition of "national security positions." OPM's letter provided the following information concerning its decision in regards to USIS concerns:

The decision on your request that USIA be permitted to use SF-86 for all applicant and employee investigations is contingent upon the final definition of national security positions. OPM would require a determination by the head of USIA that all positions within USIA meet the criteria of national security positions to approve this request...

It is clear that the prerequisite requirement, "... the final definition of national security positions," was never satisfied, as the current definition of national security positions matches the definition USIA was attempting to amend (see Attachment 2a and 5 CFR 732, below). Absent this change, USIA, without due consideration of the first factor, utilized the second factor (director's designation under 5 CFR 732.201, as seen below), as a basis to more broadly utilize the national security position identifier. Labeling all positions as sensitive allowed USIA the unfettered use of the SF-86 for all personnel and applicants.

The USIA policies concerning position sensitivity levels were carried-over to BBG when it was established in 1999 (Public Law 105-277). This policy was subsequently defended by the BBG utilizing 5 CFR 732, which sets forth certain requirements and procedures which each agency shall observe when determining national security positions. More specifically, 5 CFR 732.102 explains the necessary criteria related to national security positions and 5 CFR 732.201 delineates the designation/investigative requirements for national security positions. The aforementioned federal regulations, read as follows:

5 CFR 732.102 Definition and applicability.

- (a) For purposes of this part, the term "national security position" includes:
- (1) Those positions that involve activities of the government that are concerned with the protection of the nation from foreign aggression or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with the preservation of the military strength of the United States; and
 - (2) Positions that require regular use of, or access to, classified information. Procedures and guidance provided in OPM issuances apply...

5 CFR 732.201 Sensitivity level designations and investigative requirements.

- (a) For purposes of this part, the head of each agency shall designate or cause to be designated, any position within the department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position at one of three sensitivity levels: Special-Sensitive, Critical-Sensitive, or Noncritical-Sensitive.
- (b) Investigative requirements for each sensitivity level are provided in OPM issuances.

It is evident that USIA understood that changes in OPM policy dealing with national security positions would limit their ability to utilize the SF-86 and deter adjudicative findings under EO 10450. Moreover, the alternative adjudicative authority, under 5 CFR 731, was believed to be ill-suited to serve as the sole authority for conducting and adjudicating investigations of assigned personnel. It is also abundantly clear that these same concerns transitioned to the BBG where they remain an issue to date.

CURRENT STATUS:

Current policy and regulations direct the reassessment of all positions within BBG to determine position sensitivity and risk associated with positions in the Agency. A perceived flexibility no longer exists that

allows the BBG to self-proclaim a minimum position sensitivity for all positions located therein. More specifically, 5 CFR 1400 requires all agency heads to assess each position utilizing the PDT/PDS within the allotted timeframe of two-years. It is also important to understand that 5 CFR 1400 supersedes requirements under 5 CFR 732, which was previously utilized by BBG when making decisions dealing with earlier position sensitivity designations for positions not meeting the exact definition of a "national security position." Moreover, the BBG must comply with this directive, otherwise it risks the revocation of its delegated investigative authority.

Complying with the provisions of 5 CFR 1400, benefits the Agency in several different ways. The proper setting of position sensitivity and risk determinations by HR allows BBG/SEC to properly identify and complete the required investigation and/or clearance issuance. These changes would develop a solid foundations to a fully compliant personnel security program that neither over investigates nor under investigates Agency personnel.

Moreover, the proper assessment of Agency positions via the PDT process would appropriately identify the security/adjudicative provisions required to hold an Agency position. The use of the PDT involves a two to four step process to determine the sensitivity of the position and the required security investigation. For example, a PDT analysis of an Agency broadcaster and a maintenance worker would, in this case, downgrade the sensitivity of both positions from non-critical sensitive (Tier 3) to a Public Trust/Moderate Risk and Non-Sensitive position, respectively (see Attachment 5 a/b for PDT analysis of the aforementioned positions). Another example of how the PDT might benefit the Agency stems from the fact that since the inception of the Office of Cuba Broadcasting (OCB), all assigned positions, to include fulltime and contracted, have been designated as critical-sensitive, which calls for the same investigation commonly conducted for personnel requiring a Top Secret Clearance (Tier 5). The use of the PDT, when assessing OCB positions, would properly assess the assigned position while bringing parity to like positions located in other departments of the Agency (see cost variance of downgraded OCB positions --Tier 5 to Tier 2).

As positions are reassessed, Agency personnel, not requiring access to classified material, could receive a sensitivity downgrade without affecting the overall effectiveness of the security program, as current security investigations are closely linked in respect to the requirements for each level of review. These downgrades would reduce the overall process of conducting investigations/adjudications while, in some cases, saving the Agency tens of thousands of dollars annually.

Investigative expense associated with differences in position sensitivity

Case Sensitivity	Required Investigation	Cost of Investigation	Update Frequency
Critical-Sensitive- National Security Investigation	Tier 5	\$5389	5 Year/ CE
Non-Sensitive – Public Trust/High Risk	Tier 4	\$4051	5 Year
Non-Critical Sensitive - National Security Investigation	Tier 3	\$1435	5 Year/ CE
Non-Sensitive – Public Trust/Med Risk	Tier 2	\$1515	5 Year
Access Investigation - Minimum investigation required for facility/data system access	Tier 1	\$176	None

Note: Continuous Evaluation (CE) is mandated annually for a percentage of all Agency positions assessed as sensitive

Transitional efforts to initiate the reassessment of position sensitivity within the Agency remain limited. To begin the process, notification of BBG Management (CEO), OGC, and OHR is required. Both BBG Management and OHR were initially advised of issues related to PDT/PDS following BBG/SEC evaluation in September 2015. A second notification for BBG Management and HR occurred in early 2016. The OGC was notified in early 2016 and had no objection. At this point, the Office of the CEO must be advised of the requirements under 5 CFR 1400 and in-turn authorize OHR to initiate the reassessment process.

Actions Required to Complete 1400 Requirements

Action	BBG/SEC	OHR	BBG Management	OGC
Initial Notification	Notified	Notified	Notified	Notified
Approval	Yes	Yes	No	Yes
Required Actions	<ol style="list-style-type: none"> 1. Training Tier 2/4 (c) 2. Determine new investigative requirements 3. Conduct upgrade investigations as necessary 	<ol style="list-style-type: none"> 1. Training PDT/PDS 2. Assess positions 3. Revise Alpha Roster 	<ol style="list-style-type: none"> 1. Assess 1400 Program 2. Coordinate Union issues via LER 3. Order change 4. Monitor transition 	<ol style="list-style-type: none"> 1. Review 1400 (c) 2. Approve process (c) 3. Monitor legality of transition and overall change

Note: (c) designates completed

In conclusion, if the reassessment process under 5 CFR 1400 is further delayed, BBG Management must request an extension through OPM/ODNI. Extensions for reassessment purposes based on severe staffing, budgetary, or information technology constraints, or emergency circumstances may be authorized.

Executive Order 10450--Security requirements for Government employment

Source: The provisions of Executive Order 10450 of Apr. 27, 1953, appear at 18 FR 2489, 3 CFR, 1949-1953 Comp., p. 936, unless otherwise noted.

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, et seq.), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

Section 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.¹

Sec. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

Sec. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: *Provided*, that upon request of the head of the department or agency concerned, the Office of Personnel Management may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a

3/17/53

full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field pre-appointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

[Sec. 3 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

Sec. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

Sec. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 26, 1950.

Sec. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or

reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency:

Provided, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Office of Personnel Management that such person is eligible for such employment.

[Sec. 7 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefore, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United

States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Office of Personnel Management, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Office. The Office shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Office of Personnel Management, and other departments and agencies may use such facilities under agreement with the Office.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

[Sec. 8 amended by EO 10491 of Oct. 13, 1953, 18 FR 6583, 3 CFR, 1949-1953 Comp., p. 973; EO 10531 of May 27, 1954, 19 FR 3069, 3 CFR, 1954-1958 Comp., p. 193; EO 10548 of Aug. 2, 1954, 19 FR 4871, 3 CFR, 1954-1958 Comp., p. 200; EO 11785 of June 4, 1974, 39 FR 20053, 3 CFR, 1971-1975 Comp., p. 874; EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 9. (a) There shall be established and maintained in the Office of Personnel Management a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Office under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Office of Personnel Management information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

[Sec. 9 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

Sec. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Office of Personnel Management on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion and the determination of the board shall be forwarded to the head of the department or agency concerned: *Provided*, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Office of Personnel Management on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

[Sec. 11 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked.

[Sec. 12 amended by EO 11785 of June 4, 1974, 39 FR 20053, 3 CFR, 1971-1975 Comp., p. 874]

Sec. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

Sec. 14. (a) The Office of Personnel Management, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Office of Personnel Management shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Office of Personnel Management to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Office of Personnel Management in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Office as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Office of Personnel Management is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

[Sec. 14 amended by EO 10550 of Aug. 5, 1954, 19 FR 4981, 3 CFR, 1954-1958 Comp., p. 200; EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

Sec. 15. This order shall become effective thirty days after the date hereof.

¹ Editorial note: In *Cole v. Young*, 76 S.Ct. 861 (1955), section 1 of Executive Order 10450 was held to be invalid if applied to every department and agency.

ELECTRONIC CODE OF FEDERAL REGULATIONS

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Title 5 → Chapter IV → Part 1400

Title 5 Administrative Personnel

PART 1400—DESIGNATION OF NATIONAL SECURITY POSITIONS

Contents

Subpart A—Scope

- §1400.101 Purpose
- §1400.102 Definitions and applicability
- §1400.103 Implementation

Subpart B—Designation and Investigative Requirements

- §1400.201 Sensitivity level designations and investigative requirements
- §1400.202 Waivers and exceptions to preappointment investigative requirements
- §1400.203 Periodic reinvestigation requirements
- §1400.204 Reassessment of current positions
- §1400.205 Savings provision

Subpart C—Procedural Rights and Reporting

- §1400.301 Procedural rights
- §1400.302 Reporting to OPM

AUTHORITY: 5 U.S.C. 1103(a)(5), 3301, 3302, 7312; 50 U.S.C. 3023, 3341; E.O. 10450, 3 CFR, 1949-1953 Comp., p. 936; E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218; E.O. 12968, 3 CFR, 1995 Comp., p. 391; E.O. 13467, 3 CFR, 2008 Comp., p. 196; 3 CFR, 2013 Comp., p. 358.

SOURCE: 80 FR 32262, June 5, 2015, unless otherwise noted.

↑ Back to Top

Subpart A—Scope

↑ Back to Top

§1400.101 Purpose.

(a) This part sets forth certain requirements and procedures which each agency shall observe for determining national security positions pursuant to Executive Order 10450—Security Requirements for Government Employment (April 27, 1953), 3 CFR 1949-1953 Comp., p. 936.

(b) All positions must be evaluated for a position sensitivity designation commensurate with the responsibilities and assignments of the position as they relate to the impact on the national security, including but not limited to eligibility for access to classified information.

↑ Back to Top

§1400.102 Definitions and applicability.

(a) In this part—

(1) *Critical infrastructures* are systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

Approved 2

(2) *Key resources* are publicly or privately controlled resources essential to the minimal operations of the economy and government.

(3) *National security* refers to those activities which are directly concerned with the foreign relations of the United States, or protection of the Nation from internal subversion, foreign aggression, or terrorism.

(4) *National security position* includes any position in a department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security

(i) Such positions include those requiring eligibility for access to classified information

(ii) Other such positions include, but are not limited to those whose duties include

(A) Protecting the nation, its citizens and residents from acts of terrorism, espionage, or foreign aggression including those positions where the occupant's duties involve protecting the nation's borders, ports, critical infrastructure or key resources, and where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(B) Developing plans or policies related to national defense or military operations.

(C) Planning or conducting intelligence or counterintelligence activities, counterterrorism activities and related activities concerned with the preservation of the military strength of the United States.

(D) Protecting or controlling access to facilities or information systems where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

(E) Controlling, maintaining custody, safeguarding, or disposing of hazardous materials, arms, ammunition or explosives, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(F) Exercising investigative or adjudicative duties related to national security, suitability, fitness or identity credentialing, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

(G) Exercising duties related to criminal justice, public safety or law enforcement, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security, or

(H) Conducting investigations or audits related to the functions described in paragraphs (a)(4)(ii)(B) through (G) of this section, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

(b) The requirements of this part apply to positions in the competitive service, positions in the excepted service where the incumbent can be noncompetitively converted to the competitive service, and Senior Executive Service (SES) positions held by career appointees in the SES within the executive branch. Departments and agencies may apply the requirements of this part to other excepted service positions within the executive branch and contractor positions, to the extent consistent with law.

[↑ Back to Top](#)

§1400.103 Implementation.

OPM and the Security Executive Agent designated pursuant to Executive Order 13467 or any successor order may set forth policies, general procedures, criteria, standards, quality control procedures, and supplementary guidance for the implementation of this part.

[↑ Back to Top](#)

Subpart B—Designation and Investigative Requirements

[↑ Back to Top](#)

§1400.201 Sensitivity level designations and investigative requirements.

(a) For purposes of this part, the head of each agency must designate, or cause to be designated, a position within the department or agency as a national security position pursuant to §1400.102(a). National security positions must then be designated, based on the degree of potential damage to the national security, at one of the following three sensitivity levels:

(1) Noncritical-Sensitive positions are national security positions which have the potential to cause significant or serious damage to the national security, including but not limited to

- (i) Positions requiring eligibility for access to Secret, Confidential, or "L" classified information, or
 - (ii) Positions not requiring eligibility for access to classified information, but having the potential to cause significant or serious damage to the national security.
- (2) Critical-Sensitive positions are national security positions which have the potential to cause exceptionally grave damage to the national security, including but not limited to
- (i) Positions requiring eligibility for access to Top Secret or "Q" classified information;
 - (ii) Positions not requiring eligibility for access to classified information, but having the potential to cause exceptionally grave damage to the national security;
 - (iii) Positions involving development or approval of war plans, major or special military operations, or critical and extremely important items of war;
 - (iv) National security policy-making or policy-determining positions;
 - (v) Positions with investigative duties, including handling of completed counterintelligence or background investigations, the nature of which have the potential to cause exceptionally grave damage to the national security;
 - (vi) Positions involving national security adjudicative determinations or granting of personnel security clearance eligibility;
 - (vii) Positions involving duty on personnel security boards;
 - (viii) Senior management positions in key programs, the compromise of which could result in exceptionally grave damage to the national security;
 - (ix) Positions having direct involvement with diplomatic relations and negotiations;
 - (x) Positions involving independent responsibility for planning or approving continuity of Government operations;
 - (xi) Positions involving major and immediate responsibility for, and the ability to act independently without detection to compromise or exploit, the protection, control, and safety of the nation's borders and ports or immigration or customs control or policies, where there is a potential to cause exceptionally grave damage to the national security;
 - (xii) Positions involving major and immediate responsibility for, and the ability to act independently without detection to compromise or exploit, the design, installation, operation, or maintenance of critical infrastructure systems or programs;
 - (xiii) Positions in which the occupants have the ability to independently damage public health and safety with devastating results;
 - (xiv) Positions in which the occupants have the ability to independently compromise or exploit biological select agents or toxins, chemical agents, nuclear materials, or other hazardous materials;
 - (xv) Positions in which the occupants have the ability to independently compromise or exploit the nation's nuclear or chemical weapons designs or systems;
 - (xvi) Positions in which the occupants obligate, expend, collect or control revenue, funds or items with monetary value in excess of \$50 million, or procure or secure funding for goods and/or services with monetary value in excess of \$50 million annually, with the potential for exceptionally grave damage to the national security;
 - (xvii) Positions in which the occupants have unlimited access to and control over unclassified information, which may include private, proprietary or other controlled unclassified information, but only where the unauthorized disclosure of that information could cause exceptionally grave damage to the national security;
 - (xviii) Positions in which the occupants have direct, unrestricted control over supplies of arms, ammunition, or explosives or control over any weapons of mass destruction;
 - (xix) Positions in which the occupants have unlimited access to or control of access to designated restricted areas or restricted facilities that maintain national security information classified at the Top Secret or "Q" level;
 - (xx) Positions working with significant life-critical/mission-critical systems, such that compromise or exploitation of those systems would cause exceptionally grave damage to essential Government operations or national infrastructure, or
 - (xxi) Positions in which the occupants conduct internal and/or external investigation, inquiries, or audits related to the functions described in paragraphs (a)(2)(i) through (xx) of this section, where the occupant's neglect, action, or inaction could cause exceptionally grave damage to the national security.

(3) Special-Sensitive positions are those national security positions which have the potential to cause inestimable damage to the national security, including but not limited to positions requiring eligibility for access to Sensitive Compartmented Information (SCI), requiring eligibility for access to any other intelligence-related Special Sensitive information, requiring involvement in Top Secret Special Access Programs (SAP), or positions which the agency head determines must be designated higher than Critical-Sensitive consistent with Executive order

(b) OPM and ODNI issue, and periodically revise, a Position Designation System which describes in greater detail agency requirements for designating positions that could bring about a material adverse effect on the national security. Agencies must use the Position Designation System to designate the sensitivity level of each position covered by this part. All positions receiving a position sensitivity designation under this part shall also receive a risk designation under 5 CFR part 731 (see 5 CFR 731.106) as provided in paragraphs (c) and (d) of this section.

(c) Any position receiving a position sensitivity designation under this part at the critical-sensitive or special-sensitive level shall automatically carry with that designation, without further agency action, a risk designation under 5 CFR 731.106 at the high level.

(d) Any position receiving a position sensitivity designation at the noncritical-sensitive level shall automatically carry with that designation, without further agency action, a risk designation under 5 CFR 731.106 at the moderate level, unless the agency determines that the position should be designated at the high level. Agencies shall designate the position at the high level where warranted on the basis of criteria set forth in OPM issuances as described in §731.102(c) of this title.

↑ Back to Top

§1400.202 Waivers and exceptions to preappointment investigative requirements.

(a) *Waivers*—(1) *General* A waiver of the preappointment investigative requirement contained in section 3(b) of Executive Order 10450 for employment in a national security position may be made only for a limited period.

(i) In case of emergency if the head of the department or agency concerned finds that such action is necessary in the national interest; and

(ii) When such finding is made a part of the records of the department or agency

(2) *Specific waiver requirements* (i) The preappointment investigative requirement may not be waived for appointment to positions designated Special-Sensitive under this part

(ii) For positions designated Critical-Sensitive under this part, the records of the department or agency required by paragraph (a)(1) of this section must document the decision as follows

(A) The nature of the emergency which necessitates an appointment prior to completion of the investigation and adjudication process.

(B) A record demonstrating the successful initiation of the required investigation based on a completed questionnaire, and

(C) A record of the Federal Bureau of Investigation fingerprint check portion of the required investigation supporting a preappointment waiver

(iii) When a waiver for a position designated Noncritical-Sensitive is granted under this part, the agency head will determine documentary requirements needed to support the waiver decision. In these cases, the agency must favorably evaluate the completed questionnaire and expedite the submission of the request for an investigation at the appropriate level.

(iv) When waiving the preappointment investigation requirements, the applicant must be notified that the preappointment decision was made based on limited information, and that the ultimate appointment decision depends upon favorable completion and adjudication of the full investigative results

(b) *Exceptions to investigative requirements* Pursuant to section 3(a) of E O 10450, upon request of an agency head, the Office of Personnel Management may, in its discretion, authorize such less investigation as may meet the requirement of national security with respect to

(1) Positions that are intermittent, seasonal, per diem, or temporary, not to exceed an aggregate of 180 days in either a single continuous appointment or series of appointments, or

(2) Positions filled by aliens employed outside the United States

(c) *Applicability* This section does not apply to

(1) Investigations, waivers of investigative requirements, and exceptions from investigative requirements under 42 U.S.C. 2165(b).

(2) Investigative requirements for eligibility for access to classified information under Executive Order 12968 or

(3) Standards for temporary eligibility for access to classified information established by the Security Executive Agent pursuant to section 3.3(a)(2) of Executive Order 12968.

↑ Back to Top

§1400.203 Periodic reinvestigation requirements.

(a) The incumbent of a national security position requiring eligibility for access to classified information is subject to the reinvestigation requirements of E.O. 12968.

(b) The incumbent of a national security position that does not require eligibility for access to classified information is subject to periodic reinvestigation at least once every five years. Such reinvestigation must be conducted using a national security questionnaire and at a frequency and scope that will satisfy the reinvestigation requirements for both national security and public trust positions.

↑ Back to Top

§1400.204 Reassessment of current positions.

(a) Agency heads must assess each position covered by this part within the agency using the standards set forth in this regulation as well as guidance provided in OPM issuances to determine whether changes in position sensitivity designations are necessary within 24 months of July 6, 2015.

(b) Where the sensitivity designation of the position is changed, and requires a higher level of investigation than was previously required for the position.

(1) The agency must initiate the investigation no later than 14 working days after the change in designation, and

(2) The agency will determine whether the incumbent's retention in sensitive duties pending the outcome of the investigation is consistent with the national security.

(c) Agencies may provide advance notice of the redesignation of a position to allow time for completion of the forms releases, and other information needed from the incumbent to initiate the investigation.

(d) Agencies may request an extension, pursuant to guidance issued jointly by OPM and ODNI, of the timeframe for redesignation of positions or initiation of reinvestigations, if justified by severe staffing, budgetary, or information technology constraints, or emergency circumstances.

↑ Back to Top

§1400.205 Savings provision.

No provision of the rule in this part may be applied to make an adverse inference in pending administrative proceedings. However, the redesignation of a position may require that the occupant of that position undergo a new adjudication. An administrative proceeding is deemed to be pending from the date of the agency or OPM notice described in §1400.301(c)(1).

↑ Back to Top

Subpart C—Procedural Rights and Reporting

↑ Back to Top

§1400.301 Procedural rights.

When an agency makes an adjudicative decision based on an OPM investigation or an investigation conducted under an OPM delegation of authority, or when an agency, as a result of information in such an investigation, changes a tentative favorable placement or clearance decision to an unfavorable decision, the agency must comply with all applicable administrative procedural requirements, as provided by law, rule, regulation, or Executive order, including E.O. 12968, and the agency's own procedural regulations, and must:

(a) Ensure that the records used in making the decision are accurate, relevant, timely, and complete to the extent reasonably necessary to assure fairness to the individual in any determination,

(b) Consider all available, relevant information in reaching its final decision, and

(c) At a minimum, subject to requirements of law, rule, regulation, or Executive order

(1) Provide the individual concerned notice of the specific reason(s) for the decision, an opportunity to respond, and notice of appeal rights, if any; and

(2) Keep any record of the agency action required by OPM as published in its issuances

[↑ Back to Top](#)

§1400.302 Reporting to OPM.

(a) Each agency conducting an investigation under E.O. 10450 is required to notify OPM when the investigation is initiated and when it is completed.

(b) Agencies must report to OPM an adjudicative determination and action taken with respect to an individual investigated pursuant to E.O. 10450 as soon as possible and in no event later than 90 days after receipt of the final report of investigation.

(c) To comply with process efficiency requirements, additional data may be collected from agencies conducting investigations or taking action under this part. These collections will be identified in separate OPM and ODNI guidance, issued as necessary under §1400.103

[↑ Back to Top](#)

[Need assistance?](#)



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

INVESTIGATIONS GROUP

APR 30 1991

etc etc
[Signature]

Mr. Bernard C. Dowling ^{BCD}
Director, Office of Security
United States Information Agency
Washington, DC 20547

Dear Brian:

This responds to your March 21st letter to me wherein you commented on our interim regulations and made several requests concerning the operation of the personnel suitability, security, and investigations programs at the United States Information Agency (USIA).

For your information, the Department of State has written to the Director of OPM and raised the same concerns you expressed on our definition of national security positions. The Director of OPM will decide that matter. Any changes made will be in the final regulations and the revised Federal Personnel Manual chapters after approval by the OPM Director.

We agree that USIA has a legitimate interest in knowing about continuing contacts with all foreign nationals by its applicants and employees who must complete SF 86. I am approving USIA's requirement that individuals responding to question 14c. on SF 86 provide information on continuing contacts with all foreign nationals.

The decision on your request that USIA be permitted to use SF 86 for all applicant and employee investigations is contingent upon the final definition of national security positions. OPM would require a determination by the head of USIA that all positions within USIA meet the criteria of national security positions to approve this request. During our latest appraisal of USIA's programs, completed in July 1990, USIA identified 209 Nonsensitive positions in an agency total of 5225 positions, excluding Foreign Service Nationals employed overseas.

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Jal
[Signature]
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The Office of Management and Budget (OMB) approved the December 1990 version of SF 86 with the condition that it be used by agencies beginning March 1, 1991. The prior version of SF 86 was extended for use by OMB beyond its original

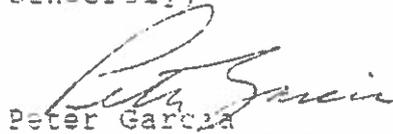
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Mr. Bernard C. D ling

expiration date of August 31, 1990, while the current version was being prepared. However, OMB has not approved the October 1987 version of SF 86 for use after February 28, 1991. Consequently, I cannot approve use of existing stocks of the expired version pending receipt of sufficient quantity of the December 1990 version.

We appreciate USIA's comments and will keep you advised of developments in these matters. Do not hesitate to contact me or Bob Longo of my staff at (202) 376-3803 with any questions.

Sincerely,



Peter Garcia
Assistant Director
Office of Federal Investigations

March 21, 1991

Ms. Frances A. Sciafani
Associate Director for Investigations
Office of Personnel Management
P.O. Box 886
Washington, D.C. 20044

Dear Ms. Sciafani:

The USIA Office of Security has read with great interest the undated interim regulations regarding Suitability, Personnel Security and Related Programs, Investigations, and Suitability Disqualification Actions, and offers the following comments:

Subchapter 1-1 of Chapter 732 defines "national security positions" as "those positions that involve activities of the Government that are concerned with the protection of the nation from foreign aggression or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with preservation of the military strength of the United States. Whenever a position requires regular use of, or access to, classified information, national security considerations are ordinarily present." Further on, in Subchapter 1-4, we are informed that "all positions not covered by this chapter are considered to be non-sensitive and the procedures in FPM Chapter 731 are applicable."

It is our belief, based upon our experience at USIA, that the above definition of "national security positions" is overly restrictive, by its emphasis upon military and intelligence matters, as it excludes positions which are sensitive with regard to their potential impact upon the conduct of foreign affairs of the United States, but which do not involve use of, or access to, classified information. To be more specific, USIA's Voice of America and Radio Marti employ a large number of International Radio Broadcasters and related positions, such as writers and editors. Because of the specific language skills needed, many of these individuals are aliens, and many are hired from countries which have been deemed to represent a hostile intelligence threat to the United States. Their broadcasts and the material upon which they are based are necessarily unclassified, but they play a vital role in the public diplomacy effort of the United States. For this reason, our language services have in the past been the targets of hostile foreign intelligence services which endeavor to place agents within these broadcast services to influence or alter the content of the broadcasts for disinformation purposes, to intimidate its personnel, or to otherwise disrupt the mission of the agency and the conduct of foreign affairs of the United States. We therefore

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consider these and other similar positions at USIA to be sensitive pursuant to E.O. 10450, as there is a potential for the occupants thereof to bring about a material adverse effect upon the national security, despite the lack of access to classified information. If the proposed criteria for defining sensitive positions are adopted, however, we will be unable to use E.O. 10450 as an authority for conducting investigations of these individuals and for determining whether their employment is clearly consistent with the interests of the national security; instead, we will be forced to use the guidelines promulgated in FPM Chapter 731, Personnel Suitability, which simply are ill-designed for such a use and inadequate to protect the national security interests of the United States.

We therefore recommend and request that the criteria for defining national security positions be expanded to include positions which are involved with the conduct of the foreign relations or affairs of the United States, whether or not use of, or access to, classified information is required. We appreciate this opportunity to comment on these proposed or interim regulations. If further information is needed concerning USIA's position on these matters, please do not hesitate to contact me or Larry Smith of my staff at 619-5764.

Sincerely,

BCD

Bernard C. Dowling
Director
Office of Security

cc: OPM/OFI - Mr. Garcia

Drafted by M/SPEV:DCG ^{DCG}tonr: dcs
Clearances: M/SPEV: JWMooney _____
M/SPE: LWSmith _____
M/SPI: JMDenney _____
M/SP: WACatterson _____
M/S: LJCarnahan _____

March 21, 1991

Mr. Peter A. Garcia
Assistant Director
OPM - OFI
P.O. Box 886
Washington, D.C. 20044

Dear Pete:

The USIA Office of Security has read the undated interim regulations regarding Suitability, Personnel Security and Related Programs, Investigations, and Suitability Disqualification Actions and has offered to Associate Director Sclafani comments regarding what we believe to be an overly restrictive definition of National Security Positions. A copy of that letter is enclosed. In this letter we wish to amplify the comments previously furnished and address other concerns raised by the revised interim regulations.

A recent audit of Agency positions developed 2,061 positions designated Critical Sensitive and 3,207 Noncritical Sensitive positions. If, as explained in our letter to Ms. Sclafani, the definition of National Security Positions is not expanded, many of those positions currently designated Critical Sensitive or Noncritical Sensitive, but which do not involve access to classified information, will be redesignated Non-Sensitive or Public Trust Positions. We will thus be obliged to investigate and adjudicate the cases of many employees, whose positions are currently designated Sensitive pursuant to E.O. 10450, under the provisions of FPM Chapter 731, which is not suited to the task, and we will be required to use the new SF-85P, rather than the SF-86.

Just as we consider FPM Chapter 731 to be ill-suited to serve as the sole authority for conducting and adjudicating investigations of individuals whose duties affect the conduct of the foreign affairs of the United States, whether or not they involve use of or access to classified information, we consider the SF-85P to be inadequate to meet the investigative concerns of a foreign affairs agency. For example, the SF-85P does not request any information concerning foreign contacts, a deficiency which USIA finds unacceptable. A related deficiency is also to be found in the SF-86; specifically, Question 14 regarding foreign activities. The respondent is informed that if the agency wishes him/her to answer the question, it will provide him/her with a list of countries. Such lists of hostile intelligence threat countries as furnished by the FBI are generally classified, which prohibits their routine disclosure. Equally to the point is that a foreign affairs agency such as USIA is interested in

1. Summary of B

all continuing contacts its employees and applicants have with foreign nationals, not simply those from criteria countries.

It is therefore the intention of USIA to require that individuals responding to Question 14 on the SF-86 provide information on continuing contacts with any and all foreign nationals. Additionally, we recommend and request that (1) the criteria for defining national security positions be expanded to include positions which are involved with the conduct of the foreign relations or affairs of the United States, whether or not use of, or access to, classified information is required; (2) USIA be permitted to use the SF-86 for all applicant and employee investigations; and (3) that USIA be permitted to use existing stocks of the old SF-86 pending receipt of the new forms in sufficient quantity to supply all applicant and employee investigations scheduled or conducted by USIA.

We appreciate this opportunity to comment on these proposed or interim regulations. If further information is needed concerning USIA's position on these matters, please do not hesitate to contact me or Larry Smith of my staff at 619-5764.

Sincerely,

BCD

Bernard C. Dowling
Director
Office of Security

Drafted by M/SPEV:DCStohrer:dcs
Clearances: M/SPEV:JWMooney _____
M/SPE:LWSmith _____
M/SPI:JMDenney _____
M/SP:WACatterson _____
M/S:LJCarnahan _____

BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency Broadcasting Board of Governors
Position Title Broadcaster
Series and Grade/Pay Band GS 14
Position Description Number 1071

Step 1: Assess the Nature of the Position.

B. Suitability Requirements

Assessment of public trust responsibilities is required for covered positions. Read the position description and obtain any other necessary information (e.g. management input) to determine if any of the following duties apply to the position. (The focus of this preliminary review should be on the actual duties of the position rather than on the agency mission or the program in which the position is located.) Place a check mark next to the duties that apply to the position. If any blocks are checked, go to Step 2. In Step 2 you will further evaluate the position's duties to determine the degree to which any misconduct could impact on the efficiency or integrity of the service. If none of the duties listed apply, there are no other activities that demand a significant degree of public trust that are not specifically listed, and there are no sensitive national security duties or clearance requirements (see A. above), go to step 4. The position will be designated as "Tier 1 (Low Risk)" in Step 4.

Check the duties that apply to this position

- Government rulemaking, policy, and program responsibility (includes regulation or policy making, directing, implementing, advising)
- Protection of the Nation's borders, ports and/or critical infrastructures (includes border and port security and control, immigration and customs services, telecommunications, utilities systems, air traffic systems, etc.)
- Public safety and health regulation, enforcement, and protection
- Control, custody, physical protection and disposition of hazardous materials (e.g. biological select agents and toxins, chemical agents, and nuclear or radiological materials)
- Law Enforcement or criminal justice duties
- Physical security, controlling facility or information technology access, and/or involvement with arms, ammunitions, or explosives
- Investigation, oversight, and audits of government personnel, programs, and activities (includes access to complete investigative files)
- Adjudication - suitability determinations, or the adjudication of other matters or claims with the potential to cause harm

Attachment 5 a

- Protection of government funds (fiduciary responsibilities or other duties, such as developing statements of work, with the potential for realizing significant personal gain)
- Protection of government information technology systems (includes access to or processing of controlled unclassified information, supervision or control of information technology systems, authority to bypass significant technical and operational security controls for general support systems, or access to major applications. The scope of these duties exceed that of ordinary or routine computer use)
- Protection of personal, private, controlled unclassified, or proprietary information (includes access to or processing of personal information such as that protected by the Privacy Act (PA) of 1974, Freedom of Information Act (FOIA), financial data, government information that is for "Official Use Only," or privileged information involving the award of contracts, contractor proprietary information, etc.)
- Government service delivery, including customer service or public liaison duties
- Other activities demanding a significant degree of public trust (Specify any other specific duties that are not otherwise covered):

^v

None of the above

BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency Broadcasting Board of Governors
Position Title Broadcaster
Series and Grade/Pay Band GS 14
Position Description Number 1071

Step 2: Determine the potential impact of the position on the efficiency and integrity of the service (public trust)

In the Chart below, each row identifies a separate category of duties and degrees of potential damage from misconduct that could occur in a position with duties in that category. For each category of duties, check the block under the appropriate degree of potential damage from misconduct (e.g., automatic High-Risk condition, severe impact, moderate impact, or limited impact) that best fits the position’s responsibilities (at its full performance level).

Note: At a minimum, supervisors or managers should be included at the same level as their employees, whether or not they personally do the work described, since they hold responsibility for the outcome of the work.

Duties	Degree of Potential for Compromise or Damage			
	<u>Automatic High-Risk Conditions</u>	<u>Severe impact</u>	<u>Moderate impact</u>	<u>Limited impact</u>
Government service delivery, including customer service and public liaison	<input type="radio"/> Duties involve customer service responsibilities and/or public liaison that could cause grave damage to individuals, business entities, or government programs or operations	<input type="radio"/> Duties involve customer service responsibilities and/or public liaison that could cause severe damage to individuals, business entities, or government programs or operations	<input checked="" type="radio"/> Duties involve customer service responsibilities and/or public liaison that could cause moderate damage to individuals, business entities, or government programs or operations	<input type="radio"/> Duties involve customer service responsibilities and/or public liaison that could cause limited damage to individuals, business entities, or government programs or operations

	nationwide or worldwide			
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Continue

Reset

BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency Broadcasting Board of Governors
Position Title Broadcaster
Series and Grade/Pay Band GS 14
Position Description Number 1071

Step 3: Point adjustment for program designation and level of supervision

In the Chart below, choose the appropriate adjustment for the scope of program impact and the level of related controls.

<p>Adjustment for Scope of Program and Correlation to Extent of Impact (see definitions)</p>	<p><input checked="" type="radio"/> Worldwide or government-wide impact</p> <p>Program operations have potential to affect the entire government or have global implications. Misconduct would have potential for a national to international impact of a broad nature on the United States government or other countries and/or the individuals or private entities affected by the Government.</p>
	<p><input type="radio"/> Multi-agency impact</p> <p>Program operations affect more than one agency. Misconduct would have potential to impact multiple government agencies, and/or the individuals or private entities affected by those agencies.</p>
	<p><input type="radio"/> Agency impact</p> <p>Program operations affect only one agency. Misconduct would have potential for a local impact on the agency, and/or the individuals or private entities affected by the agency.</p>
<p>Adjustment for level of supervision or other controls</p>	<p><input checked="" type="radio"/> <u>Limited or no supervision</u></p> <p>Ability to act independently in almost all areas almost all of the time.</p>

Periodic, ongoing review

Ability to act independently a lot of the time.

Close technical supervision

Ability to act independently infrequently.

Continue

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BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency Broadcasting Board of Governors
Position Title Broadcaster
Series and Grade/Pay Band GS 12
Position Description Number 1071

Step 4: Final Position Designation and Investigation.

The final position designation is outlined below. Note that for those positions designated as "Non-Sensitive" (no clearance or other sensitive national security duties) or "Noncritical-Sensitive" (duties with potential to cause damage to the national security, up to and including damage at the significant or serious level, including, but not limited to, access to classified material at the Secret, Confidential, or "L" level), the over-riding consideration in the final designation will depend on the designation level associated with the public trust responsibilities of the position.

National Security		
Positions Covered	Investigation	Form
"Moderate Risk"	MBI	SF 85P
Designator Notes/Justification/Comments: <input type="text"/>		

[Return to Start](#) [Print Summary](#)

BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency	Broadcasting Board of Governors
Position Title	Maintenance Worker
Series and Grade/Pay Band	GS 7
Position Description Number	0000
Designator's Name & Title	A Jansen OMS/SEC

Step 1: Assess the Nature of the Position.

A. National Security Requirements of the Position

This step is required for any position in the Federal service when the duties of the position require eligibility for access to classified material or otherwise impact the national security. Mark the block that applies and follow the instructions.

Mark the block that applies

Special-Sensitive- Positions with the potential to cause inestimable damage to the national security, including:

- Access to Sensitive Compartmented Information (SCI)
 - Access to any other intelligence-related Special Sensitive information or involvement in Top Secret Special Access Programs (SAP)
 - Any other position the agency head determines to be at a higher level than Critical-Sensitive due to special requirements that compliment E.O.10450 and E.O. 12968
- SPECIFY:

Critical-Sensitive- Positions with the potential to cause exceptionally grave damage to the national security, including:

- Access to Top Secret or "Q" classified information
- Development or approval of war plans, or plans or particulars of future major or special operations of war, or critical and extremely important items of war
- National security policy-making or policy-determining positions, the duties of which have the potential to cause exceptional or grave damage to the national security
- Investigative duties, the nature of which have the potential to cause exceptional or grave

Attachment 5b

damage to the national security, such as counterintelligence investigations

The adjudication, recommendation of adjudicative determinations, and/or granting of personnel security clearances

Duty on personnel security boards

Any other positions related to national security requiring the same degree of trust.

SPECIFY:

Noncritical-Sensitive- Positions with the potential to cause damage to the national security, up to and including damage at the significant or serious level. These positions include:

Access to Secret, "L," Confidential classified information

Any other positions with the potential to cause harm to national security to a moderate degree (these positions do not rise to the level of the positions listed above.)

SPECIFY:

None Of The Above

BACKGROUND INVESTIGATIONS POSITION DESIGNATION TOOL

Position Designation Record

Agency	Broadcasting Board of Governors
Position Title	Maintenance Worker
Series and Grade/Pay Band	GS 7
Position Description Number	0000

Step 1: Assess the Nature of the Position.**B. Suitability Requirements**

Assessment of public trust responsibilities is required for covered positions. Read the position description and obtain any other necessary information (e.g. management input) to determine if any of the following duties apply to the position. (The focus of this preliminary review should be on the actual duties of the position rather than on the agency mission or the program in which the position is located.) Place a check mark next to the duties that apply to the position. If any blocks are checked, go to Step 2. In Step 2 you will further evaluate the position's duties to determine the degree to which any misconduct could impact on the efficiency or integrity of the service. If none of the duties listed apply, there are no other activities that demand a significant degree of public trust that are not specifically listed, and there are no sensitive national security duties or clearance requirements (see A. above), go to step 4. The position will be designated as "Tier 1 (Low Risk)" in Step 4.

Check the duties that apply to this position

- Government rulemaking, policy, and program responsibility (includes regulation or policy making, directing, implementing, advising)
- Protection of the Nation's borders, ports and/or critical infrastructures (includes border and port security and control, immigration and customs services, telecommunications, utilities systems, air traffic systems, etc.)
- Public safety and health regulation, enforcement, and protection
- Control, custody, physical protection and disposition of hazardous materials (e.g. biological select agents and toxins, chemical agents, and nuclear or radiological materials)
- Law Enforcement or criminal justice duties
- Physical security, controlling facility or information technology access, and/or involvement with arms, ammunitions, or explosives
- Investigation, oversight, and audits of government personnel, programs, and activities (includes access to complete investigative files)
- Adjudication - suitability determinations, or the adjudication of other matters or claims with the potential to cause harm

- Protection of government funds (fiduciary responsibilities or other duties, such as developing statements of work, with the potential for realizing significant personal gain)
- Protection of government information technology systems (includes access to or processing of controlled unclassified information, supervision or control of information technology systems, authority to bypass significant technical and operational security controls for general support systems, or access to major applications. The scope of these duties exceed that of ordinary or routine computer use)
- Protection of personal, private, controlled unclassified, or proprietary information (includes access to or processing of personal information such as that protected by the Privacy Act (PA) of 1974, Freedom of Information Act (FOIA), financial data, government information that is for "Official Use Only," or privileged information involving the award of contracts, contractor proprietary information, etc.)
- Government service delivery, including customer service or public liaison duties
- Other activities demanding a significant degree of public trust (Specify any other specific duties that are not otherwise covered):

None of the above

Attachment – 20

From: Nicholas Fechter nfechter@bbg.gov
Subject: 5 CFR 1400 Request for Extension: Personnel Security and Suitability

Date: Apr 11, 2017, 10:15:30 AM

To: suitea@opm.gov

Cc: Marie Lennon mlennon@bbg.gov, Andrew M. Jansen amjansen@bbg.gov

Good Morning Ms. Loss,

I am writing this morning to formally submit a request for extension in implementing 5 CFR 1400 at the Broadcasting Board of Governors (BBG). While the Agency has been working to become fully compliant with the regulation, we are requesting more time to review and re-assess all of the covered positions at the Agency. Our delayed progress is, in part, due to the complicated nature of national security positions within the Agency, the BBG's history with position sensitivity matters, and the Agency's current resources. Full implementation of 5 CFR 1400 is and will remain a priority for the Agency, and we hope to work with you going forward on establishing a more fitting expectation for full compliance.

Of course, I can be available at your convenience to get into more of the specific challenges we have encountered with full implementation of 5 CFR 1400, should that be helpful.

Sincerely,

Nicholas Fechter
Management and Program Analyst
International Broadcasting Bureau
Office of Management Services
O: 202.382.5248

Amjansen 20

Attachment – 21

REQUEST TO: OPM/ODNI
FROM: Marie Lennon, Director of Management Services
SUBJECT: Extension for full compliance of 5 CFR 1400

In response to ODNI's request for extension dated March 8th, 2018, I am writing this morning to formally submit a request for extension in implementing 5 CFR Part 1400 at the Broadcasting Board of Governors (BBG). While the Agency has been working to become fully compliant with the regulation since the passing of 5 CFR 1400, representatives from the Office of Management Services initially reached out to request an extension for full compliance in April of 2017. The request dated April 11th, 2017 explained our desire to review and re-assess all of the Agency's covered positions. At the time, our Office of General Counsel was still reviewing the requirements of 5 CFR 1400. The General Counsel wanted to better understand how the requirements of 5 CFR 1400 would impact our ability to identify and mitigate potential risks to the Agency, given the Agency's unique staffing requirements, and complicated history with personnel security.

The Broadcasting Board of Governors (BBG) history with position sensitivity stretches back to at least 1991, when the Director of Security at the United States Information Agency (USIA)—the precursor to the BBG—was petitioning OPM to recognize Agency positions as National Security positions, and further to allow the Agency's use of the SF-86. The position of USIA's Director of Security at the time was related to the fact that many of the Agency's employees, "...are aliens, and many are hired from countries which have been deemed to represent a hostile intelligence threat to the United States." Further, the Director of Security at USIA explained that the Agency had been targeted in the past by "...hostile foreign intelligence services which endeavor to place agents within these broadcast services to influence or alter the content of the broadcasts for disinformation purposes, to intimidate its personnel, or to otherwise disrupt the mission of the agency and the conduct of foreign affairs of the United States." Given the above concerns, the former Director of Security at USIA reasoned that, "...there is a potential for [International Radio Broadcasters, writers, editors and related positions] to bring about a material adverse effect upon the national security, despite the lack of access to classified information," and that the use of an SF-86 remained a vital tool for fully investigating current and potential employees.

The concerns expressed by the Director of Security at USIA in 1991 are as present and pressing today as they were 26 years ago. As such, the BBG's General Counsel in coordination with senior management in the Office of Management Services would like to request a waiver to the requirement in 5 CFR 1400 to assess or re-assess the position sensitivity of all covered positions at the Agency. As an alternative, the Agency would like to request permission for a blanket classification of non-critical sensitive for all Agency positions not deemed critical sensitive.

Security and suitability are and will remain a priority for the Agency, and we hope to work with you going forward to establish a more fitting expectation of our full compliance. Please note that the request for waiver to 5 CFR 1400 is forthcoming from our Head of Agency.

Marie Lennon
Director of the Office of Management Services
mlennon@bbg.gov
202.203.4504

HTM 2/21/21

Attachment – 22

Attachment C - USAGM Waiver Request to 5 CFR 1400



BROADCASTING BOARD OF GOVERNORS
UNITED STATES OF AMERICA

April 2016

Office of the Director of National Intelligence
National Counterintelligence and Security Center
Security Executive Agent

Office of Personnel Management
Stability and Credentialing Executive Agent

To Whom It May Concern:

The Broadcasting Board of Governors (BBG) has assessed the matter of position sensitivity designation pursuant to a review of 5 CFR Part 1400, Executive Order 13467, as amended by EO 13764, and other relevant guidance and authorities.¹

A "sensitive position" is a position for which the occupant could be subject by virtue of the nature of the position, or merely a false effect on the national security, to a material adverse effect by definition to a "national security position", which "includes any position in a department or agency the occupant of which could be subject by virtue of the nature of the position, a material adverse effect on the national security."² The head of Agency is called upon to "designate, or cause to be designated" any position which the head of Agency determines should be designated as a national security position,³ and then determine whether changes in position sensitivity designations are necessary.⁴

¹ As elaborated below, this includes 5 CFR 1400.101(a), 5 CFR 1400.104(a) and also section 2.7(b) of EO 13467, as amended by EO 13764, and 22 USC 1484b. The latter is a BBG specific provision of law which poses the requirement that the BBG or Executive assess whether BBG staff are subject to foreign influence for disclosure which by definition would appear to categorize all positions at least the non-internal sensitive level (i.e. as a minimum, requiring the type of investigation required for a national security position under 5 CFR 731.106 at the moderate level, unless the agency determines that the position should be designated at the high level) (Section 2.7(b) of EO 13467, as amended).

² 5 CFR 1400.102(a).

³ Section 2.7(b) of EO 13467, as amended ("Heads of agencies shall (a) designate, or cause to be designated, as a sensitive position, any position occupied by a covered individual in which the occupant could be subject by virtue of the nature of the position, a material adverse effect on the national security." 5 CFR 1400.101(a); the head of each agency must designate, or cause to be designated, a position within the department or agency (that the head of agency believes is a national security position) as a national security position pursuant to (1400.102. (c)).

⁴ 5 CFR 1400.104 (a) Agency heads must assess, using relevant regulatory and guidance, the appropriate whether changes in position sensitivity designations are necessary within 24 months of July 6, 2015, or later if a waiver is granted.

31 CONNORSTONE AVENUE SW ROOM 1475 CORNING BUILDING WASHINGTON, DC 20545 TEL: 202-445-5454 FAX: 202-445-5455

Handwritten initials/signature

Privileged under Law Enforcement Privilege; Exempt from Disclosure under FOIA Exemptions
7E, 7F

Based on that review, the Agency has determined that changes in current Agency position designations are not warranted at this time. Accordingly, pursuant to that review, the Agency will continue to consider every covered position at BBG a "National security position," given the ability of the occupant of each position to potentially bring about a material adverse effect upon the national security.

As a result, all Agency positions will remain at a minimum as non-critical sensitive⁶, while positions requiring Special-Sensitive and Critical Sensitive designations are assigned based on definitions provided under 1400.201 (see below).

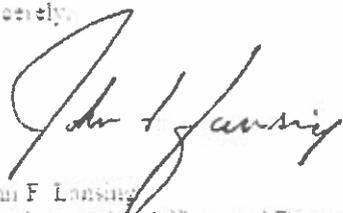
This designation is consistent with BBG's long-standing practice. As the Agency indicated back in 1991 to OPM, given our unique mission in the foreign affairs national security space, we face risks of "hostile foreign intelligence services, which endeavor to place agents within [the Agency] to influence or alter the content of the broadcast, for disinformation purposes, to intimidate its personnel, or to otherwise disrupt the mission of the agency and the conduct of foreign affairs of the United States." That practice is also consistent with the need that Congress has recognized for the BBG to investigate assess whether any potential staff are subject to foreign influence loyalty. See 22 USC 1464b.⁷ Protecting against these and similar risks is precisely the reason that the BBG established its current practice and seeks to continue this practice.

Per 5 CFR 1400.201(d) agencies may determine that national security positions may be designated at a higher level than non-critical sensitive, where warranted on the basis of criteria set forth in OPM issuances as described in 5 CFR 731.102(c). Currently we have 81 critical-sensitive and 15 special-sensitive positions.

We wish to thank the Office of the Director of National Security for their insight and support of the Agency as we assessed 5 CFR Part 1400.

If you require any additional information about the BBG's current suitability and security programs, please do not hesitate to contact Ms. Marie Lemmon at 202 203-4504.

Sincerely,



John F. Lansing
Chief Executive Officer and Director

⁶ In accordance with 5 CFR 1400.201(d) a non-critical-sensitive position automatically initially carries with it a risk designation under 5 CFR 731.106 at the moderate level.

⁷ See footnote 1, *supra*.

Attachment – 23



SECURITY EXECUTIVE AGENT
DIRECTIVE 1

SECURITY EXECUTIVE AGENT AUTHORITIES AND RESPONSIBILITIES

(EFFECTIVE: 13 MARCH 2012)

A. AUTHORITY: The National Security Act of 1947 (NSA of 1947), as amended; Executive Order (EO) 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information*; EO 12968, *Access to Classified Information*, as amended; EO 12333, *United States Intelligence Activities*, as amended; EO 13549, *Classified National Security Information Program for State, Local, Tribal and Private Sector Entities*; and other applicable provisions of law.

B. PURPOSE: This Directive consolidates and summarizes the authorities and responsibilities assigned to the Director of National Intelligence (DNI) in the role as the Security Executive Agent (SecEA) responsible for the development, implementation, and oversight of effective, efficient, and uniform policies and procedures governing the conduct of investigations and adjudications for eligibility for access to classified information or eligibility to hold a sensitive position. Nothing in this Directive shall be construed to limit the DNI's legal authorities.

C. APPLICABILITY: This Directive applies to:

1. Any individual or entity assisting the SecEA in carrying out Security Executive Agent related responsibilities;
2. Any department or agency designated to perform investigations or adjudications of persons proposed for access to classified information or for eligibility to hold a sensitive position; and
3. Individuals seeking initial or continuing access to classified information or eligibility to hold a sensitive position with the exception of the President, Vice President, Members of Congress, Justices of the Supreme Court, and Federal judges appointed by the President as exempted by 28 CFR 17.46.

D. DEFINITIONS: As used in this Directive, the following terms have the meanings set forth below:

UNCLASSIFIED

1. "Agency": Any "Executive agency" as defined in Section 105 of Title 5, United States Code, including the "military department," as defined in Section 102 of Title 5, United States Code, and any other entity within the Executive Branch that comes into possession of classified information or has positions as sensitive, except such an entity headed by an officer who is not a covered individual.

2. "Authorized adjudicative agency": A department or agency authorized by law, regulation, or direction of the SecEA, to determine eligibility for access to classified information in accordance with EO 12958, as amended, or to hold a sensitive position.

3. "Authorized investigative agency": A department or agency designated by the SecEA to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information or eligibility to hold a sensitive position or to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information or for initial and continued eligibility to hold such positions.

4. "Classified national security information" or "classified information": Information that has been determined, pursuant to EO 13526, or any predecessor order, to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

5. "Sensitive position": Any position within a department or agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on national security as defined in Section 3(b) in EO 10450.

E. POLICY:

1. The SecEA may delegate signature authority within the Office of the Director of National Intelligence to issue and implement policies assigned by law or EO.

2. Existing delegations of authority to any department or agency relating to granting eligibility for access to classified information and for conducting investigations shall remain in effect, subject to the exercise of authorities by the SecEA to revise or revoke such delegation.

3. As appropriate, the SecEA will coordinate with the Suitability Executive Agent and other Executive Branch officials to achieve the greatest degree of alignment possible for investigations and adjudications of persons proposed for access to classified information or for eligibility to hold a sensitive position and to build upon and not duplicate the levels of investigations and adjudications of such persons.

4. The SecEA will establish an Advisory Committee composed of appropriate Executive Agency branch representatives, whom shall meet as necessary to advise and coordinate on policies and procedures related to SecEA responsibilities.

5. The SecEA will take into account, as appropriate, the counterintelligence interests of the United States in carrying out SecEA responsibilities.

F. ROLES AND RESPONSIBILITIES:

1. The SecEA, with respect to investigations and determinations made by any agency for eligibility for access to classified information and eligibility to hold a sensitive position, is responsible for:

a. directing the oversight of such investigations and determinations;

b. developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications, to include, but not limited to:

(1) development of a common set of investigative standards for background investigations. These standards may vary for the various levels of access and position sensitivity designations;

(2) development of minimum investigative standards for temporary access eligibility determinations, which may be granted only by security personnel authorized by the agency head; and

(3) development of a common set of reinvestigation standards, including the frequency of reinvestigations or continuous evaluations.

c. serving as the final authority to designate a department, agency, or agencies to:

(1) conduct investigations of persons who are proposed for eligibility for access to classified information or eligibility to hold a sensitive position to ascertain whether such persons satisfy the criteria for obtaining and retaining eligibility; and

(2) determine eligibility for access to classified information in accordance with EO 12968.

d. issuing guidelines and instructions to the heads of departments or agencies to ensure appropriate uniformity, centralization, efficiency, effectiveness, and timeliness in processes relating to determinations by departments or agencies;

e. ensuring reciprocal recognition among the agencies of the U.S. Government of eligibility for access to classified information and eligibility to hold a sensitive position, including acting as the final authority to arbitrate and resolve disputes among departments and agencies involving the reciprocity of investigations and eligibility determinations;

f. assigning, as appropriate, in whole or in part, any functions assigned by law or EO to the head of any agency (solely or jointly), subject to terms, conditions, approval and oversight set by the SecEA:

UNCLASSIFIED

g. developing a common set of adjudicative guidelines for determining eligibility for access to classified information and eligibility to hold a sensitive position, including access to special access programs;

h. developing requirements and procedures, to include but not limited to, the implementation of standardized:

- (1) security questionnaires;
- (2) financial disclosure forms;
- (3) polygraph policies and procedures;
- (4) foreign travel reporting requirements; and
- (5) foreign contact reporting requirements;

i. developing and overseeing policies and procedures governing uniform investigator and adjudicator training, and promulgating implementing guidance for the same;

j. approving agency requests to establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed the requirements for eligibility to hold a sensitive position or access to classified information; and

k. improving the performance of security clearance processing including:

(1) review, coordination, and development of tools and techniques for enhancing the conduct of investigations and granting of clearances;

(2) evaluating the use of available information technology and databases to expedite investigative and adjudicative processes for all and to verify standard information submitted as part of an application for a security clearance;

(3) evaluating the extent to which a department or agency is submitting information to, and requesting information from such databases as part of a determination on whether to certify the department or agency as an authorized investigative agency or authorized adjudicative agency; and

(4) authorizing an agency to withhold information about certain individuals from the database under this subsection if the head of the agency considers it necessary for national security purposes.

2. Additional SecEA responsibilities include:

UNCLASSIFIED

- a. considering, coordinating and recommending policy directives for Executive Branch security policies, procedures, and practices per EO 12968, as amended;
- b. serving as a member of the Performance Accountability Council; and
- c. reporting to the appropriate committees of Congress as required by law or as requested.

3. Heads of agencies shall:

- a. assist the SecEA in carrying out any function assigned to them by the SecEA, consistent with law, regulation, or EO;
- b. implement any policy or procedure developed by the SecEA consistent with law, regulation, or EO;
- c. make available to the SecEA, as permitted by law, such information as may be requested to implement responsibilities of the SecEA consistent with law, regulation, or EO;
- d. ensure that all actions taken under this Directive, or subsequent directives, take into account the counterintelligence interests of the United States, as appropriate;
- e. establish and maintain effective, uniform programs that ensure eligibility determinations for access to classified information and sensitive positions are in the interest of the national security; and
- f. share best practices.

G. EFFECTIVE DATE: This SecEA Directive becomes effective on the date of signature.



Director of National Intelligence

13 MAR 2012
Date

Attachment – 24



September 17, 2015

Ms. Marie Lennon
Chief of Staff
International Broadcasting
Bureau Broadcasting Board of
Governors 330 Independence
Ave SW Washington, DC
20237

Dear Ms. Lennon:

Enclosed please find the draft report of the U.S. Office of Personnel Management (OPM), Federal Investigative Service's (FIS) and the Office of the Director of National Intelligence's (ODNI), Office of National Counterintelligence and Security Center (NCSC) Special Security Directorate (SSD) joint program review of the Broadcasting Board of Governors (BBG) suitability and security program.

Our report contains 25 recommendations, which when implemented, will result in improvements in the personnel security and suitability program. The most significant areas identified for improvement are related to position designation, investigation processing, HSPD-12 processing, investigations program, suitability and National Security adjudication, National Security clearance timeliness, Central Verification System updates, and internal control activities.

Please review the draft report and provide any comments or corrections within 30 days of receipt of this correspondence. We will incorporate any corrections, as appropriate, and issue a final report.

Your correspondence can be directed to Mari Hughes, OPM Agency Oversight Chief Inspector, at , 703-603--0583; or Gary Novotny, ODNI Assessments Program Manager, at GARYMN@odni.gov, 301-227-8767.

Sincerely,

Brian A. Prioletti
Assistant Director, Special Security
Directorate Office of the Director of

National Intelligence
Counterintelligence and Security
Center



Federal Investigative Services

Donna L. McLeod
Assistant Director, External Affairs
Office of Personnel Management

Enclosure

CC: Mr. Frederick Lang, Director of Security
Ms. Carroll Cobb, Director of Human Resources

Attachment – 25

Peter Lagerberg

From: Peter Lagerberg
Sent: Wednesday, August 26, 2015 9:50 AM
To: Carroll Ellis Cobb
Cc: Frederick Lang; Andrew M. Jansen; Frances Hodge
Subject: DRAFT OPM/ODNI Audit Summary Findings
Attachments: 2395_001.pdf

9/19

Carroll,

Attached are the results of the Draft summary findings from the combined OPM and ODNI audit received last week.

Recommendation Numbers: 1, 2, 3, 4, 6, 7, and 21 apply to HR.

I have supplied a copy of 5 CFR 1400 for HR use in responding to numbers 2 and 3.

oik/HR
9/9 - Ned
0930 fi

We can discuss these any time you are available. Please let me know.

Thanks,

Peter K. Lagerberg
Chief
Investigations/Adjudications/Counterintelligence Division
Office of Security (M/S)
International Broadcasting Bureau
Broadcasting Board Governors
V: 202-382-7784 (Unsecure)
F: 202-382-7794 (Unsecure)
C: 202-329-0033
V: 202-619-4692 (Secure)
F: 202-619-4692 (Secure)
plagerberg@BBG.gov (Unsecure)
LagerbergPK@state.sgov.gov (Secure)

HR: is not connected by OPM findings of the requirements - Before all OPM reports they need had partial access. This is a gov-wide system issue.

Peter Lagerberg

From: Frederick Lang
Sent: Tuesday, September 08, 2015 2:02 PM
To: Peter Lagerberg
Cc: Frederick Lang
Subject: RE: OPM and ODNI Audit Draft Response

Peter-

This is unclear as to which are mitigated, which aren't, and status.

Suggest you use the following format:

Finding:

Recommendation:

Status:

Thanks-- fred

From: Peter Lagerberg
Sent: Tuesday, September 08, 2015 12:50 PM
To: Frederick Lang
Subject: OPM and ODNI Audit Draft Response

Fred,

From the attached draft OPM and ODNI audit response, all have been mitigated except for points: 5 points (#'s 14, 15, 19, 20, 23) and excluding the HR points (1-4, 6,7 21), which Carrol needs to address.

Peter K. Lagerberg
Chief
Investigations/Adjudications/Counterintelligence Division
Office of Security (M/S)
International Broadcasting Bureau
Broadcasting Board Governors
V: 202-382-7784 (Unsecure)
F: 202-382-7794 (Unsecure)
C: 202-329-0033
V: 202-619-4692 (Secure)
F: 202-619-4692 (Secure)
plagerberg@BBG.gov (Unsecure)
LagerbergPK@state.sgov.gov (Secure)

Peter Lagerberg

From: Peter Lagerberg
Sent: Wednesday, October 07, 2015 9:32 AM
To: Carroll Ellis Cobb
Cc: Frederick Lang; April Cabral
Subject: OPM ODNI Audit Response

Carroll,

SEC has prepared our final draft responses to the OPM/ODNI audit.

Please advise where HR currently stands on the audit responses pertaining to your area.

Thanks,

Peter K. Lagerberg
Chief
Investigations/Adjudications/Counterintelligence Division
Office of Security (M/S)
International Broadcasting Bureau
Broadcasting Board Governors
V: 202-382-7784 (Unsecure)
F: 202-382-7794 (Unsecure)
T: 202-329-0033
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F: 202-619-4692 (Secure)
plagerberg@BBG.gov (Unsecure)
LagerbergPK@state.sgov.gov (Secure)

Attachment – 26

Andrew M. Jansen

From: Andrew M. Jansen
Sent: Friday, March 29, 2019 11:34 AM
To: Chris Luer
Cc: Mattie Lennort
Subject: Fwd: Aisha Muazu

Chris,

This is just an example showing how the information exchange at our Monday meetings is not being shared with OHR assistants. As we have been trying to tell them, they cannot begin collecting information outside of a 306, resume, and standard PII without a conditional offer letter being sent. This issue immediately leads to an all-stop for security when we discover the issue. I repeat, when we discover the issue. The question is, how many times has this happened and we didn't know to stop our end? To make this worse, at least two applicants (APPLICANTS) have refused to be fingerprinted until a conditional offer is presented! The applicants are now informing OHR on process.

Please note that this is the third issue of this kind in the last week. We have worked directly with Milsa and Leslie to inform them of the requirements; however, we've been told that OHR does not provide conditional offer letters.

The aforementioned issue, when partnered with the fact that full packages are not being submitted to SEC, doubles the work process issue. SEC will not initiate until all paperwork is received in package form. We do not have the administrative capability to collect this information sheet by sheet and will not do so. No complete package, no investigation. SEC must stand strong on this, otherwise we will spend half our time correcting paper deficiencies and the other half defending ourselves from complaints that we aren't timely.

Anyway, Sec cannot takeover all of OHR responsibilities (and yes these are their responsibilities). SEC will continue to work with OHR, but training them how to do OHR work is a whole different issue. I will be forwarding future issues to you as they arise with the hope that you can mediate problems in real time. I will bring these issues up on Monday so that all are on the same page.

Thanks for your continued assistace,

Drew

Get Outlook for iOS

From: Jocelyn Velazquez <jvelazquez@usagm.gov>

Sent: Friday, March 29, 2019 9:29 AM

To: Frances Hodge

Cc: Andrew M. Jansen

Subject: FW: Re: Aisha Muazu

Good morning Frances,

Please let me know what to tell Leslie about this person. No offer, no fingerprints, e-QIP is done.
Should we wait for Carl to return next week?

Jocelyn

From: Leslie Mcknight <lmcknight@usagm.gov>

Sent: Thursday, March 28, 2019 10:59 AM

To: Jocelyn Velazquez <jvelazquez@usagm.gov>

Subject: RE: Re: Aisha Muazu

Any updates?

From: Leslie Mcknight

Sent: Tuesday, March 26, 2019 2:35 PM

To: Jocelyn Velazquez <jvelazquez@usagm.gov>

Subject: RE: Re: Aisha Muazu

Jocelyn,

We do not make conditional offers. What we do is send a letter (see attached sample) to candidates in order for them to complete the pre-suitability process. Once that has been completed and security sends us the go-ahead, then we prepare an official offer.

From: Jocelyn Velazquez <jvelazquez@usagm.gov>

Sent: Tuesday, March 26, 2019 2:30 PM

To: Leslie Mcknight <lmcknight@usagm.gov>

Subject: RE: Re: Aisha Muazu

Leslie,

Has a conditional offers already been made?

Jocelyn

From: Leslie Mcknight <lmcknight@usagm.gov>

Sent: Tuesday, March 26, 2019 9:02 AM

To: Jocelyn Velazquez <jvelazquez@usagm.gov>

Subject: RE: Re: Aisha Muazu

Ms. Muazu cannot come until she receives an offer letter to present to the Embassy. They will issue her a travel paperwork. Also, non-US citizens usually do not have 2 forms of ID. They will only have passports.

From: Jocelyn Velazquez <jvelazquez@usagm.gov>

Sent: Tuesday, March 26, 2019 8:57 AM

To: Leslie Mcknight <lmcknight@usagm.gov>

Subject: RE: Re: Aisha Muazu

She needs fingerprints. When is she coming to the US? If she is still out of the country we need to her send her the fingerprint cards.

We need to PIV with 2 ID.

From: Leslie Mcknight <lmcknight@usagm.gov>

Sent: Monday, March 25, 2019 4:28 PM

To: Jocelyn Velazquez <jvelazquez@usagm.gov>

Subject: Re: Aisha Muazu

Is there any further paperwork needed for Aisha Muazu?

Thanks,



Leslie Mcknight

Human Resources Specialist

Office of Human Resources

U.S. Agency for Global Media (USAGM)

(202) 382-7500 – phone

(202) 382-7542 – fax

U.S. Agency for Global Media | Broadcasting Board of Governors

330 Independence Ave., SW | Washington, DC 20237

<http://usagm.gov>

Attachment – 27

**BROADCASTING BOARD OF GOVERNORS
INTERNATIONAL BROADCASTING BUREAU**



PERFORMANCE APPRAISAL REPORT

Type of Report (Check One)

- Annual Rating of Record
 - Interim - Departure of Employee
 - Interim - Departure of Rater
 - Interim - Change of Duties
 - Rating of Record - WGI Determination
 - Interim - Completion of Detail or Temporary Promotion
 - Interim -
- Other: _____

(Specify Reason)

SECTION I. GENERAL PERSONNEL INFORMATION

Name of Rated Employee ANDREW JANSEN		SSN	Performance Appraisal Period 07/01/2018 - 06/30/2019
Title, Grade, and Pay System DIRECTOR OFFICE OF SECURITY, 15, GS		Organizational Symbol OMS/S	
Name and Title of Rating Officer MARIE LENNON, DIRECTOR OF MANAGEMENT SERVICES		Name and Title of Reviewing Officer MARIE LENNON, DIRECTOR OF MANAGEMENT SERVICES	
Date Report Submitted to Personnel Office (M/P)		Is This Position Supervisory? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

GENERAL INFORMATION

Rated Employees, Rating and Reviewing Officers should read MOA V-A 450 for policies and detailed instructions. Questions should be directed to the appropriate personnel office (M/PO or M/PL).

AT THE BEGINNING OF THE RATING PERIOD

--Normally within 30 days of the beginning of the rating period, the Rating Officer, in joint participation with the Rated Employee must determine at least two critical and any non-critical requirements of the position, establish a performance standard for the Fully Successful level for each requirement, and clearly and concisely state them in Section II-A.

--If an employee has significant supervisory responsibilities, at least one critical requirement must address these responsibilities.

--Performance requirements and standards must be reviewed, signed and dated at the beginning of the rating period by the Rating and Reviewing Officers and the Rated Employee in Section I-A.

--If a new Rating Officer arrives during the appraisal period, requirements and standards will be established on a new form IA-1272 between the Rated Employee and Rating Officer with proper signatures and dates, even if the requirements and standards do not change.

DURING THE RATING PERIOD

--The Rating Officer must discuss performance with the Rated Employee at

The Rating Officer prepares the appraisal in Section II and III.

--The Rating Officer signs and dates the form and submits the appraisal for higher level review and approval to the Reviewing Officer.

--The Reviewing Officer indicates concurrence in the Rating Officer's summary rating in Section IV, Part A, prepares the narrative review in Section IV, Part B, and signs and dates the form. If there is no higher level official who can serve as Reviewing Officer, that fact and the reason must be indicated in Section IV.

--The summary rating must be reviewed and approved by a person at a higher level in the organization than the Rating Officer before communication to the Rated Employee. If there is no Reviewing Officer, a higher level approval is required in Section V in addition to the pool manager if the pool manager is other than the Associate/Office/Service Director (or another official in the chain of command).

--The Reviewing Officer (or other higher level reviewer) forwards the performance appraisal to the performance award pool manager for approval of the summary rating and signature in Section V before communication to the Rated Employee.

--For an Outstanding or Unsuccessful summary rating, approval by the Associate/Office/Service Director is required in Section V before communication to the Rated Employee.

--The performance appraisal is returned to the Rating Officer for discussion with

Appraisal 27

least once, preferably mid-way through the rating period, and is encouraged to do so more frequently. At the time of the discussion(s), the Rating Officer should sign and date Section I-B and the Rated Employee should sign Section I-C.

--Any modifications to the requirements and/or standards must be documented by the Rating Officer in Section I-B, approved by the Reviewing Officer in Section I-B, and certified by the Rated Employee in Section I-C.

AT THE END OF THE RATING PERIOD

--The Rating Officer initiates the appraisal process by soliciting the Rated Employee's comments on his/her performance (including specific accomplishments during the appraisal period). The Rating Officer and Rated Employee should discuss the employee's accomplishments and deficiencies with respect to each performance requirement and its standard.

the Rated Employee.

--The Rated Employee may add comments in Section VI, if desired. The Rated Employee should have a reasonable amount of time, normally three working days, to review the completed appraisal. Supervisors should read and consider the Rated Employee's comments. The performance appraisal must be reviewed and approved again in accordance with procedures above if the summary rating is changed for any reason.

--Narrative justification is normally to be contained within the space provided on the appraisal form, but is limited to no more than one additional page overall. There is no limitation on the comments provided by the Rated Employee.

--The Rating Officer will forward the completed performance appraisal to the appropriate Office of Personnel for filing.

--See MOA V-A 450 for information on interim ratings.

SECTION I-A (To be completed by Rating Officer, Rated Employee, and Reviewing Officer at beginning of rating period.)

We certify that the performance requirements in Section II, and accompanying performance standards were established on 12/05/2018, after discussion between us, and that each of us has received a copy of them.

Electronically signed by: Marie Lennon

DIRECTOR OF MANAGEMENT SERVICES 08/01/2019

Signature of Rating Officer Date

Electronically signed by: Andrew Jansen

07/03/2019
Signature of Rated Employee Date

I certify that I have reviewed and approved any modifications.

Electronically signed by: Marie Lennon

DIRECTOR OF MANAGEMENT SERVICES 05/28/2019

Signature of Reviewing Officer Date

SECTION I-B (To be completed by Rating and Reviewing Officers during the rating period.)

I certify that performance review discussions with the Rated Employee were held on 02/13/2019
Date(s)

I certify that if any modifications to the requirements and/or standards were made on _____, such changes are reflected in the revised standards/requirements which are attached to the performance plan and the Rated Employee was provided a copy of the revisions.

Electronically signed by: Marie Lennon

DIRECTOR OF MANAGEMENT SERVICES 08/01/2019

Signature of Rating Officer Date

I certify that I have reviewed and approved any modifications.

Signature of Reviewing Officer Date

SECTION II. EVALUATION OF INDIVIDUAL PERFORMANCE REQUIREMENTS

Performance Requirement Number 1 (Note: Use a separate page for each performance requirement)

A. (Complete this item at the beginning of the rating period)

Performance Requirement :Standard Supervisory

Standard Supervisory. Provides leadership, assignments, guidance, training, support, and feedback to staff members, manages assigned financial, technical and material resources, and coordinates activities with customers and other organizations.

Is this a critical requirement ? Yes No

Fully Successful Performance Standard (other standards optional):Standard Supervisory - Measures/Alignment with Organizational Goals

- Conversations with staff regarding management objectives, priorities, activities, and performance conducted at least monthly.
- Performance standards are established no later than 60 days after the beginning of the appraisal period, a mid-year review is conducted no later than seven months after the beginning of the rating period and annual performance appraisals to staff members are provided and discussed by due dates. As appropriate, monetary and non-monetary forms of recognition are used to recognize extraordinary performance in a timely manner throughout the year. Any performance or conduct problems are addressed in a timely and effective manner.
- As applicable, the results of customer surveys, peer reviews, and contractor surveys meet targets.
 - No evidence of a significant violation of equal employment opportunity, ethical, or merit system principles, or of intimidation, retaliation or abusive conduct.
 - No evidence of more than one significant instance of failure to coordinate organizational activities with other elements.
- As applicable, follow budget, financial, and procurement guidelines and contractors and vendors are properly paid by appropriate deadlines, As applicable, meets organizational targets for recruiting efforts of minorities, women, and disabled individuals.
- As applicable, meets organizational targets for employee participation in BGG's telework program.

Fully Successful Performance Standard (other standards optional):Standard Supervisory - Fully Successful Performance

- Demonstrates a dependable, timely, high level of performance that contributes to the achievement of the Agency's objectives and the well-being of its staff.
- Fosters high ethical standards and an inclusive workplace that nurtures the development of staff to their full potential; allows for full participation by all employees; facilitates collaboration, cooperation, and teamwork; and supports constructive resolution of conflicts.
- Plans work and provides staff with a clear understanding of assignments, expectations and priorities and management objectives, priorities, and organizational activities. Seeks and considers employee input. Ensures staff has training needed to carry out assignments. Motivates employees to perform successfully and holds them accountable for a successful level of performance and conduct. Recognizes and rewards extraordinary contributions. Selects, retains, and develops the talent needed to achieve a high quality, diverse workforce, with the knowledge and skills needed to accomplish organizational objectives.
- Coordinates activities effectively with customers and other organizations and takes any action needed to resolve any related issues in an effective and collaborative manner. Ensures organization's funds and resources are requested, used, and reported on in a timely, proper and efficient manner. Uses technology and innovates to enhance processes and decision making.

Measures/Alignment with Organizational Goals

Conversations with staff regarding management objectives, priorities, activities, and performance conducted at least monthly.

Performance standards are established no later than 60 days after the beginning of the appraisal period, a mid-year review is conducted no later than seven months after the beginning of the rating period and annual performance appraisals to staff members are provided and discussed by due dates. As appropriate, monetary and non-monetary forms of recognition are used to recognize extraordinary performance in a timely manner throughout the year. Any performance or conduct problems are addressed in a timely and effective manner.

As applicable, the results of customer surveys, peer reviews, and contractor surveys meet targets.

- No evidence of a significant violation of equal employment opportunity, ethical, or merit system principles, or of intimidation, retaliation or abusive conduct.
- No evidence of more than one significant instance of failure to coordinate organizational activities with other elements.

As applicable, follow budget, financial, and procurement guidelines and contractors and vendors are properly paid by appropriate deadlines, As applicable, meets organizational targets for recruiting efforts of minorities, women, and disabled individuals.

As applicable, meets organizational targets for employee participation in BRG's telework program.

B. (Complete this item normally within 30 days after end of rating period)

Evaluation of performance on this requirement: Level of Achievement (Check one)

Outstanding Highly Successful Fully Successful Minimally Successful Unsuccessful

Describe specific reasons, citing examples, for this rating:

Mr. Jansen's performed his supervisory and managerial duties very well during the rating period. His employees were all placed on performance standards and requirements, periodic progress reviews were conducted and final appraisals were completed within required timeframes. When the agency's authority to conduct background investigations was suspended, Mr. Jansen had to determine how to best utilize the investigative staff during the suspension period. One staff member was assigned to the Insider Threat Program (ITP) where his work has already significantly advanced that important initiative. The former staff member who handled ITP was making insufficient progress. Mr. Jansen counseled the staff member and provided specific tasks and timeframes to demonstrate improvement in the program. The end result was non-renewal of the contract and subsequent assignment to one investigative staff member. Mr. Jansen's deft handling of this matter has resulted in a viable Insider Threat program for USAGM.

SECTION II. EVALUATION OF INDIVIDUAL PERFORMANCE REQUIREMENTS

Performance Requirement Number 2 (Note: Use a separate page for each performance requirement)

A. (Complete this item at the beginning of the rating period)

Performance Requirement :Physical Security

Develops worldwide physical and personnel security strategies, plans, policies, and programs; provides advice and liaison with other organizations. Develops and provides security strategies, plans, policies, and programs. Serves as the principal advisor to the Director of Management Services, the CEO, Board and other managers and supervisors on security related issues. Acts as liaison and representative for the USAGM with other agencies and organizations on security matters.

Is this a critical requirement ? Yes No

Fully Successful Performance Standard (other standards optional):Director of Security GS-15 - Physical Security

- Performance results in USAGM have the physical and personnel security strategies, plans, programs, policies and processes needed to protect USAGM staff, facilities, and classified information.
- Plans policies, programs, and processes are consistent with governing laws, regulations, and policies and are submitted by established deadlines with no more than 3 instances of failure to meet deadlines in a performance cycle.
- Plans/policies Take into account USAGM strategies, performance objectives, priorities, available resources, operational requirements and relevant conditions.
- Is able to articulate a sound understanding of physical and personnel security, management and administrative principles.
- The USAGM is effectively represented in activities with outside organizations in a manner that achieves USAGM's goals and performance objectives. No more than 3 significant instances of failure to coordinate with other relevant elements.
- Responds to those customers within 48 hours in an effective manner that demonstrates strong support for the agency's mission.

B. (Complete this item normally within 30 days after end of rating period)

Evaluation of performance on this requirement: Level of Achievement (Check one)

Outstanding Highly Successful Fully Successful Minimally Successful Unsuccessful

Describe specific reasons, citing examples, for this rating:

The Chief of the Physical Security team within the Office of Security retired during the rating period, leaving a considerable void within the office and impacting physical security programs domestically and overseas. Mr. Jansen took the opportunity to take a fresh look at physical security both within headquarters and at our overseas facilities. He completely revamped the old process by making major changes to inspection rotations, physical security standards, reporting, and follow-up responsibilities. While recruitment activities were underway to locate a new Chief of Physical Security, Mr. Jansen identified a contractor with excellent credentials to fill in the gap. The contractor previously worked with a major foreign affairs agency and was conversant with DOS-mandates for overseas

security as well as possessing considerable experience in identifying and correcting physical security deficiencies in remote overseas locations where USAGM houses most of our correspondent staff. Lastly, Mr. Jansen assisted with the development of Article X of the Grantee agreement by providing security related information and by offering minimum safety standards related to Grantee facilities. As for our headquarters building, Mr. Jansen routinely met with guard force personnel to convey USAGM needs and requirements. He participated in several meeting with managerial guard force personnel and FPS Inspectors to provide reports of poor performance and/or discourteous behavior, which, on occasion, led to the removal of guard staff. Other changes overseen by Mr. Jansen at headquarters included new or replaced camera systems, locking devices, public notification programs, and conducting active shooter training for all personnel.

SECTION II. EVALUATION OF INDIVIDUAL PERFORMANCE REQUIREMENTS

Performance Requirement Number 3 (Note: Use a separate page for each performance requirement)

A. (Complete this item at the beginning of the rating period)

Performance Requirement :Personnel Security

Provide effective personnel security services including thorough evaluations, adjudications, and investigations of Agency personnel. Provides security services to grantees. Implements Executive Orders and statutes in determining eligibility for issuance of security clearances. Controls distribution and storage of sensitive and classified information. Conducts employee security briefings, new employees training programs, and periodic refresher training for current employees. Develops and distributing guidelines using broadcast messages and other means regarding the proper handling of classified information. Uses case tracking technology to monitor personnel security actions.

Is this a critical requirement ? Yes No

Fully Successful Performance Standard (other standards optional):Personnel Security

- Performance results in USAGM having the personnel and information security services needed to achieve USAGM's goals, performance objectives and strategic priorities.
- All security determinations and clearances comply with regulatory requirements and legal statutes and are enforced guaranteeing all agency candidates and employees are afforded appropriate due process.
- No occurrence of security violations or incidents within the rating cycle as a result of the clearance process.
- Investigations and security clearance activities are controlled by a monthly review of case tracking system for case closings, timelines and costs.

B. (Complete this item normally within 30 days after end of rating period)

Evaluation of performance on this requirement: Level of Achievement (Check one)

- Outstanding Highly Successful Fully Successful Minimally Successful Unsuccessful

Describe specific reasons, citing examples, for this rating:

USAGM's delegated authority to conduct personnel security investigative actions (PSP) was not renewed based on the findings of an inspection conducted in April 2018. As a result of this renewal issue, numerous changes in the program were needed to satisfy OPM and USAGM investigative requirements. Initially, all investigations were transferred from USAGM to NBIB. This process required major changes in background investigation initiations (e-QIP) applications and process changes within SEC. Subsequent to these changes the Security Office has performed beyond past accomplishments when comparing initial processing of case materials and adjudicative timelines. Moreover, adjustment in personnel assignments led to the initiation of a SEC e-QIP team which allowed SEC to seamlessly transition case investigations and provide a timelier investigative process. Overall SEC currently performs administrative process/adjudications that comply with regulatory requirements and legal statutes that guarantees each candidate is afforded appropriate due process. During the evaluation period, Mr. Jansen instituted new on-boarding procedures and provided guidance and training concerning all aspects of personnel security.

SECTION II. EVALUATION OF INDIVIDUAL PERFORMANCE REQUIREMENTS

Performance Requirement Number 4 (Note: Use a separate page for each performance requirement)

A. (Complete this item at the beginning of the rating period)

Performance Requirement :Security Standards

Ensures a safe and secure workplace for all USAGM employees (domestic and overseas) and domestic contractors. Implement Overseas Security Policy Board standards at USAGM overseas sites and GSA requirements at domestic locations. Review, adjust and implement the five year security plan designed to ensure the safety and physical security of personnel of USAGM, contract staff and visitors within prescribed timeframe. Conduct visits and security surveys of USAGM worldwide facilities to ensure that all security requirements and countermeasures are met.

Monitors guard performance and meets with GSA building management, FPS, and representatives of the guard contract services upon request/as necessary or at a minimum of an annual basis. Provide security services to grantees as defined by the grant agreements.

Is this a critical requirement ? Yes No

Fully Successful Performance Standard (other standards optional):Security Standards

- Performance results in the safety of USAGM staff and visitors enabling achievement of USAGM's goals, performance objectives, strategic priorities, and the well-being of its staff and visitors.
- No security violations, incidents or unauthorized entries or penetrations of USAGM sites as a result of failure in implementation or planning of security protocols/policies.
- Review of inspections/surveys of overseas stations/locations performed by security personnel are immediately addressed and corrective action is implemented within prescribed timeframe. Any recommended security enhancements are addressed within prescribed timeframe with no more than 3 instances of failure to meet deadline.
- Results of contract guard deficiencies are reported to DHS/FPS within one working day and corrections are made within 15 days.

B. (Complete this item normally within 30 days after end of rating period)

Evaluation of performance on this requirement: Level of Achievement (Check one)

Outstanding Highly Successful Fully Successful Minimally Successful Unsuccessful

Describe specific reasons, citing examples, for this rating:

Mr. Jansen initiated and solidified contacts with contemporaries at key foreign affairs and intelligence agencies and became a regular attendee and participant at applicable seminars and workgroups. Information derived from these sources was utilized to fortify overseas facility inspection programs as well as exchange counterintelligence (CI) and counterterrorism (CT) information. Mr. Jansen made numerous contacts with State regional security personnel to establish the connection and obtain threat assessment information. He also participated in several overseas/domestic facility inspections (Sao Tome, Korea, Miami, etc.) and provided insight to improve the process; communicated with assigned personnel to determine their needs and issues; established a security inspection schedule to assess overseas facilities; and estimated budgetary requirements related to improvements of transmitter sites and bureau facilities security upgrades.

Mr. Jansen also initiated a Counter Intelligence Program (CIP) after recognizing the need for compartmentalizing and analyzing related information. While the Office of Security has performed CI activities in the past, no program was instituted, no specialized networking was permitted, and only minimal training was provided. Based on the mission and associated personnel at USAGM, several IC related agencies were contacted and discussions opened regarding the need and the path to a successful ICP. These contacts inspired further interaction with the Office of the Director of National Intelligence (ODNI) which has now teamed with USAGM to assist with the development of Agency's program.

SECTION III. OVERALL SUMMARY RATING

- A. After completing Section II, the Rating Officer must assign one of the overall summary ratings listed below (modifications or substitutions are not permitted). The summary rating is based primarily upon the Rated Employee's performance of critical requirements and may not be reduced more than one level below the summary rating derived from critical requirements because of performance on noncritical requirements.

Summary Levels of Achievement (Check One):

- Outstanding** - All critical requirements must have been rated Outstanding and no more than two noncritical requirements may be rated as low as Highly Successful.
- Highly Successful** - All critical requirements must have been rated at least Highly Successful and all noncritical requirements at least Fully Successful. A Highly Successful summary rating may still be appropriate if performance on one, but not more than one, critical requirement is rated Fully Successful, provided performance on other critical requirements is rated at least Highly Successful and the Rater concludes that (1) the requirement was relatively less important than other critical requirements and (2) required only a small portion of the time of the employee and (3) that performance on that requirement was offset by performance on two or more other critical requirements.
- Fully Successful** - Performance on all critical requirements must have been rated at least Fully Successful and performance on not more than one noncritical requirement rated as low as Minimally Successful. In exceptional cases, a summary rating of Fully Successful still may be appropriate if performance on one, but not more than one, critical requirement is rated Minimally Successful, provided the Rater concludes that (1) the requirement was significantly less important than other critical requirements and (2) required only a small portion (less than 10 - 15%) of the time of the employee and (3) that performance on the requirement was offset by at least Fully Successful ratings on two other more critical requirements, or by at least a Highly Successful rating if there was only one other critical requirement.
- Minimally Successful** - Except as noted above under Fully Successful, a summary rating of Minimally Successful is appropriate if the employee's performance has been rated as Minimally Successful on one or more critical or two or more noncritical requirements (see Section 453.2c of MOA V-A).
- Unsuccessful** - A summary rating of Unsuccessful is required if the employee's performance on one or more critical requirements has been rated as Unsuccessful.

- B. **Optional comments:** The Rating Officer may add any comments not covered elsewhere in the report to explain the overall rating chosen. A narrative justification must be provided for an overall summary rating of Outstanding or Unsuccessful.

This has been a very challenging year for security operations at USAGM. Mr. Jansen rose to meet each challenge with determination and optimism, and significant progress has been made towards needed improvements to all security programs affecting USAGM staff and contractors.

As noted throughout this rating, Mr. Jansen has initiated new standards and protocols, and is working with staff members and the greater security community towards development of a model security program. He takes his responsibilities in this regard very seriously and his commitment and dedication are reflected in the accomplishments noted during the rating period.

Mr. Jansen is a valued member of the Office of Management Services and I'm fortunate to work with him on an area of support services that cannot be overemphasized.

Electronically signed by: Marie Lennon
DIRECTOR OF MANAGEMENT SERVICES

09/20/2019

Signature of the Rating Officer

Date

SECTION IV. REVIEWING OFFICER'S STATEMENT

Reviewing Officers must have served a sufficient time (normally 90 days) in their position to have adequate basis for completing this statement. If there can be no Reviewing Officer, the reasons should be explained in IV-B below.

A. Overall Rating

The Reviewing Officer must check one of the statements below. If there is a difference between the rating given by the Rating Officer and that given by the Reviewing Officer, the latter will prevail. In such cases, the Reviewing Officer must explain this difference of opinion through specific references to ratings in Section II and III and must discuss this Section in draft with the Rating Officer. It must also be discussed with the Rated Employee following any required approvals.

- I concur in the Overall Summary Rating assigned in Section III or
- I do not concur in the Overall Summary Rating assigned in Section III and assign the following Overall Summary Rating instead (Check one):
- Outstanding Highly Successful Fully Successful Minimally Successful Unsuccessful

B. Reviewing Officer's comments

Comment on: (1) extent of knowledge of the specific responsibilities and assignments the Rated Employee was expected to perform ; (2) whether the performance requirements and standards are reasonable and fair in relation to other similar positions; (3) how well the Rated Employee carried out his/her responsibilities; and (4) whether the nature of the working relationship between the Rated Employee and Rating Officer has a significant impact on performance or the performance appraisal process and whether the Rated Employee received adequate guidance.

Signature of the Reviewing Officer

Date

SECTION V. FORM FOR PMS REVIEWS AND APPROVALS

A. Approval of Summary Rating by Higher-Level Reviewer/Awards Pool manager (all ratings): (To be completed by the Agency official in charge of managing the performance award pool prior to discussion of the rating with the rated employee.)

The overall Summary Rating assigned is:

- Outstanding
- Highly Successful
- Fully Successful
- Minimally Successful
- Unsuccessful

APPROVED

 Signature of Higher-Level Reviewer
 (Optional unless there is no Reviewing Officer)

APPROVED

 Signature of Pool Manager

B. Approval of "Outstanding" or "Unsuccessful" Summary Rating. Must clearly meet the definition for levels of achievement on page 2 of this form.

APPROVED

I assign a summary rating of _
in lieu of the summary rating in A above.

DISAPPROVED

Electronically signed by: Oanh Tran
MANAGING DIRECTOR

09/19/2019

Signature of Associate /Office/Service Director

Date

SECTION VI. RATED EMPLOYEE'S COMMENTS

The Rated Employee may use this space to provide additional comments and insights into his/her performance during the rating period. These optional comments should not be construed automatically as a rebuttal of the performance appraisal. Additional pages may be added if necessary. The Rated Employee should sign below to indicate he or she has read the appraisal and received a copy of it. The Rated Employee's signature does not indicate agreement with the appraisal.

Throughout the rating period, the Ratee conducted monthly office meetings to discuss management objectives, budget issues, priorities, activities, and performance issues. Biweekly meetings with Physical Security Staff were also held, beginning at the inception of planning for the new Physical Security Inspection Program (PSIP), to discuss program development, documentation, coverage requirements, and minimum inspection requirements for CONUS and OCONUS Agency facilities, to include Grantee facilities. The PSIP is scheduled to begin operations in October 2019. Likewise, weekly meetings with the OMS director were accomplished along with other sporadic meetings with senior management officials, VOA personnel, and other agency associated personnel to include Grantee, guard force, and union representatives. Generally, the enhanced communications improved the employee's understanding of programs and overall mission while also enhancing SEC's capabilities related to the expeditious handling of customer support. Base on the aforementioned efficiencies, SEC is more dependable, timely, and runs at a higher level of performance while contributing to the achievement of Agency objectives.

During the evaluation period, the Ratee implemented significant changes to all SEC programs to meet Agency specific requirements or oversight mandates. The Personnel Security Program and the PSIP received complete makeovers to include the writing of associated directives, policy, and memoranda documenting the changes and allowing for the transition of program requirements to future SEC team members. The following changes were conducted:

PIP: The Ratee initiated and oversaw changes in the PIP by writing the new PIP directive along with several memoranda dealing with the initiation of an e-QIP office responsible for the timely frontend actions of the PIP. Since completing the directive, the material was reviewed and approved by both OMS and OGC personnel for inclusion in the BAM. Likewise, the Ratee initiated the operational capabilities of the e-QIP office by hiring, training, and conducting assessments of performance related to on-boarding Agency personnel and contract staff. Changes in this portion of the PIP program have brought SEC timelines into compliance with OPM regulations and in-turn has led to better customer service and a better overall understanding of the program by Agency personnel.

PSIP: The Ratee initiated, developed, and oversaw the new PSIP, which completely revamped the old process by making major changes to inspection rotations, standards (OSPB/ISC), reporting, and follow-up responsibilities. The PSIP program does not include local changes in physical security elements in the Cohen Building, which includes new or replaced camera systems, locking devices, public notification programs, active shooter program, online SEAD 3 training program (sensitive position requirements), and other security programs instituted under my direction. Overall, the program will better secure Agency, Grantee, and Contracted personnel in both CONUS and OCONUS assignments.

Insider Threat Program: The Ratee assessed the Insider Threat Program (ITP) and discovered major deficiencies in the program. The ITP manager was advised of the of the deficient nature of the program and given time to correct all issues. Unfortunately, corrections were not made and the contracted manager was removed and an FTE investigator assigned as the acting ITP manager. Subsequently, the acting manager closed all but three mandatory elements needed for the National Insider Threat Task Force (NITTF) to fully certify USAGM's ITP. Throughout this process, contact with NITTF personnel was maintained to keep them abreast of the compliance elements attained. The NITTF is now fully

satisfied with USAGM's ITP and looks forward to certifying the program.

Counterintelligence Program (CIP): The Ratee initiated a CIP after recognizing the need for compartmentalizing and analyzing related information. SEC has performed CI activities in the past; however, no program was instituted, no specialized networking was permitted, and only minimal training was provided. Based on the mission and associated personnel at USAGM, several IC related agencies were contacted and discussions opened regarding the need and the path to a successful ICP. These contacts inspired further interaction with ODNI which has now teamed with USAGM to assist with the development of Agency's program. Currently, a USAGM investigator is assigned as the acting CI investigator. The investigator has attended numerous related seminars and training programs and is slated for certification through the FBI's CI program. The ICP is still in development and will initiate when program materials are finalized, reviewed, and approved by senior management.

USAGM's delegated authority to conduct personnel security investigative actions (PSP) was not renewed based on the findings of a SNAP inspection conducted in April 2018. As a result of this renewal issue, numerous changes in the program were needed to satisfy OPM and USAGM investigative requirements. Initially, all investigations were transferred from USAGM to NBIB. This process required major changes in e-QIP applications and process changes within SEC. Subsequent to the change-out, SEC has performed beyond past performance levels when comparing initial processing of case materials and adjudicative timelines. Moreover, adjustment in personnel assignments led to the initiation of a SEC e-QIP office which completely changed the frontend of the PSP, which allowed SEC to seamlessly transition case investigations and provide a timelier investigative process. Overall SEC currently performs administrative process/adjudications that comply with regulatory requirements and legal statutes that guarantees each candidate is afforded appropriate due process.

During the evaluation period, the Ratee instituted new on-boarding procedures, provided guidance and training concerning the handling and storage of classified material, assisted with the initiation of a new OpenNet and ClassNet Program, developed online SEAD 3 training, assist with the development of active shooter briefs, acted as a panelist of a safety and security program and instituted changes in other programs and actions.

Ratee regularly attended OSPB, SecEA, BISG, and FBI CI seminars and utilized information derived therefrom to fortify overseas facility inspection programs as well as provide CI and counterterrorism (CT) information to interested parties at both CONUS and OCONUS facilities. The Ratee made numerous contacts with RSO personnel to establish the connection and obtain threat assessment information; participated in several overseas/domestic facility inspections (Sao Tome, Korea, Miami, etc.); provided insight to improve the process; communicated with assigned personnel to determine their needs and issues; established a security inspection schedule to assess overseas facilities; and estimated budgetary requirements related to improvements of transmitter sites and bureau facilities security upgrades.

Moreover, the Ratee met with guard force personnel to convey USAGM needs and requirements. The Ratee participated in several meeting with managerial guard force personnel and FPS inspectors to provide reports of poor performance and/or discourteous behavior, which, on occasion, led to the removal of guard staff. Likewise, the Ratee established mandatory periods when the guard force would be observed to identify issues. Likewise, the Ratee handled several complaints from other Cohen Building occupants (HHS) dealing with turnstile issues. All complaints were concluded to the satisfaction of HHS OIG management. Lastly, the Ratee assisted with the development of Article X of the Grantee agreement by providing security related information and by offering minimum safety standards related to Grantee facilities.

Electronically signed by: Andrew Jansen

Signature of Rated Employee

09/23/2019

Date

Attachment – 28

Andrew M. Jansen

From: Andrew M. Jansen
Sent: Monday, December 3, 2018 8:05 AM
To: 'Lisa.Loss@opm.gov'
Subject: Review Findings/Thanks

No response

Ms. Loss,

I wanted to send a short email thanking you and the inspectors for completing a thorough assessment of the US Agency for Global Media (USAGM) suitability/security program. The assessment report delineated issues concerning the inaction of this agency to deal with compliance issues regarding delegated authority and standards related in 5 CFR 1400, among others. Please be aware that the Office of Security (SEC) has attempted to either obtain or comply with these requirements, but oversight issues stymied our efforts. However, since receiving the draft assessment report, things here have certainly changed. The inspection results spurred immediate interest in security programs and an urgency to correct past decisions/practices.

As you are most likely aware, USAGM has sent its response outlining our actions or proposed actions to correct issues outlined as recommendations in the assessment report. Included in the response is a statement indicating an agreement to correct each problem area. Overall, I anticipate a quick turnaround within SEC that will bring us within full compliance with a staff and contract element that can sustain the workload.

On a second note, would you please designate a point-of-contact from the inspection team who we may query when questions arise, as we remedy the identified issues. We are in the process of modifying complicated investigatory functions associated with our grantee population, our sensitivity assessment process, and others. Contact with your office would provide us with peace of mind that we are on the right track while providing your office insight on what we are accomplishing as we bring USAGM within full compliance. I look forward to working with you and your team in an effort to lay a strong foundation as we redevelop USAGM security protocols. Please feel free to contact me if you have any questions.

Respectfully,

Andrew Jansen



Andrew Jansen

Director, Office of Security

U: 202-382-7789

Attachment 28

TO: USAGM

DATE: December 10, 2020

RE: Debarment Based on Withholding of Documents and Information

This memorandum examines whether the Open Technology Fund's ("OTF") removal of records and withholding of information from the United States Agency for Global Media ("USAGM") could support a debarment decision. We have been asked to consider OTF's lack of transparency about its performance of grant agreements and lack of cooperation with ongoing USAGM investigations. In particular, we have been asked whether OTF's withholding of information and destruction of certain documents could support debarment. In conducting this examination, we had limited access to information because of OTF's refusal to provide documents or access to employees.

Based on the available information, we conclude that OTF's removal of records and failure to provide information to USAGM could serve as a basis for debarment. OTF was bound by its grant agreement to retain records and permit USAGM access to both its records and employees. Despite these grant obligations, we understand that OTF has prevented access to email records of senior officers, limited access to records concerning OTF activities, and limited access to OTF employees. These potential agreement violations limit USAGM's ability to determine whether OTF is adequately performing on its grant obligations and complying with the terms of the grant.

Part I provides an overview of the relevant federal regulations related to debarment. Part II provides an overview of the relevant provisions of the FY-2020 OTF Grant Agreement and related federal regulations. Part III discusses whether USAGM may debar OTF based on potential violations of the FY-2020 Grant Agreement and related federal regulations.

I. Debarment Overview

Debarment results in the exclusion of an organization or person from participation in transactions under Federal non-procurement programs. *See* 22 C.F.R. § 513.105; 22 C.F.R. § 513.110(a). Debarment is a "discretionary action[]." 22 C.F.R. § 513.115(a). It should "be used only in the public interest and for the Federal Government's protection and not for purposes of punishment." 22 C.F.R. § 513.115(b).

An organization or person may be debarred "for any of the causes in § 513.30[5]." 22 C.F.R. § 513.300. These causes include a "[v]iolation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program." 22 C.F.R. § 513.305(b). Examples of this cause include "[a] willful failure to perform in accordance with the terms of one or more public agreements or transactions," "[a] history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions," or "[a] willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction." 22 C.F.R. § 513.305(b)(1)–(3). Grounds for debarment also include "[a]ny other cause of so serious or compelling a nature that it affects the present responsibility of a person." 22 C.F.R. § 513.305(d).

When deciding whether to debar an individual or organization, the existence of a cause does not require debarment. 22 C.F.R. § 513.300. Instead, a debarring official should consider “the seriousness of the person’s acts or omissions and any mitigating factors.” *Id.*

II. OTF’s 2020 Grant Agreement Requires Cooperation with USAGM and Retention of Records

OTF’s grant agreement for FY-2020 requires it to cooperate with USAGM and to retain relevant records. For example, Article XII, Paragraph (g) of the FY-2020 Grant Agreement requires OTF to cooperate with USAGM. Specifically, it provides that OTF “shall permit USAGM or its authorized representatives, including the Inspector General, to visit the Non-Federal Entity’s facilities and to inspect the facilities, activities, and work pertinent to the grant, both in the United States and abroad, and to interview personnel engaged in the performance of the grant to the extent deemed necessary by USAGM.” Similarly, Article XII, Paragraph (a) of the FY-2020 Grant Agreement requires OTF to retain relevant records for three years from the date of submitting a final expenditure report in order to allow USAGM to verify “the Non-Federal Entity’s compliance with its representations, warranties, and obligations contained in” the FY-2020 Grant Agreement.¹ Finally, Article VII, Paragraph (a) of the FY-2020 Grant Agreement, requires OTF to comply with “all Federal rules and regulations pertaining to federal grants.” This requirement specifically includes “2 C.F.R. § 200 [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards].”²

OTF’s agreement to comply with 2 C.F.R. § 200 requires it to provide reasonable access to records. Specifically, “[t]he Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts.” 2 C.F.R. § 200.336(a). This right “includes timely and reasonable access to the non-Federal entity’s personnel for the purpose of interview and discussion related to such documents.” *Id.*

III. Analysis.

Our investigation has identified a number of facts and circumstances that may serve as the basis for debarment. Based on the limited information available for our review, it appears that OTF’s potential destruction of documents, withholding of information, and resistance to oversight, could each separately support debarment as these actions potentially violate the grant provisions and federal regulations discussed above. Debarment actions may be initiated as a result of OTF’s potential violations of the FY-2020 Grant Agreement’s requirements for cooperation with USAGM and retention of records.

First, based on information provided by USAGM and our interviews of RFA employees, we understand that Libby Liu directed that her RFA e-mails be transferred to OTF’s servers and permanently removed from RFA’s servers, which instruction was complied with. Liu’s direction may have prevented RFA from being able to carry out its regulatory obligation to properly preserve and maintain both RFA-related records and OTF grant records (*e.g.*, if the e-mail contained documents or information that could qualify as those that are “pertinent to a Federal award”). Unlike other employees who departed RFA for

¹ H56114-0001-036547, FY-2020 Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund, FAIN: OT01-20-GO-0001, at 2 (dated January 30, 2020). (“Records required to be kept in order to comply with the terms and conditions of this Agreement, including bid solicitations, evidence of shipment for commodities and procurement and service contracts, shall be maintained by the Non-Federal Entity for a period of three (3) years from the date of the submission of the final expenditure report, in a manner that will permit verification of the Non-Federal Entity’s compliance with its representations, warranties, and obligations contained in this Agreement.”).

² *Id.* at 11 (bold emphasis added).

OTF where there was an agreement in place to ensure RFA retained a copy of their e-mail records, we understand that Liu's emails were removed from RFA's servers. Although we cannot ascribe any particular intent to her direction to have her e-mails transferred to OTF with any copies removed from RFA's servers, her seeking to place them further from the reach of RFA or USAGM suggests an attempt to limit transparency and likely had the effect of limiting transparency. In addition, if Liu directed RFA's CTO, systems administrator or other personnel to have all of her RFA e-mails sent to OTF and removed from RFA's servers, such acts potentially violated the FY-2020 Grant Agreement as well as the record retention requirements in 2 C.F.R. § 200 *et. seq.*

We also understand that OTF is currently refusing to cooperate with USAGM requests for reasonable access to records, despite its obligation under its grant agreements to do so. For example, in formal correspondence between USAGM and OTF from August and September 2020,³ OTF refused to provide USAGM "every contract, grant agreement, and obligation that OTF has executed to date with every organization, entity, or person to which OTF disburses funds or provides material support." OTF also objected to providing USAGM with a "a detailed description of the work done by that organization, entity, or person and any deliverables they have accomplished, and a list of any other US federal agencies or grantees that provide additional funding to these same organizations, entities, or persons."⁴ Rather than provide the requested information, OTF offered to allow USAGM to physically inspect such documents at their office on preselected dates and times, but would not allow USAGM representatives to "take photos, make photocopies, or make recordings."⁵ OTF also required that the "USAGM representatives participating in the review process sign a Non-Disclosure Agreement guaranteeing that the information and documentation provided by OTF will only be used for grant-related purposes per 2 C.F.R. Part 200."⁶ As of the date of this memorandum, we understand that OTF has not produced the requested information. OTF's refusal to produce this information, as well as its efforts to restrict USAGM's access to relevant materials, appear to violate Article XII, Paragraph (g) of the FY-2020 Grant Agreement and 2 C.F.R. § 200.336.

Finally, we understand that OTF has declined USAGM's requests to interview OTF employees. While OTF formally offered to facilitate interviews of its employees, these offers contained a number of constraints. For example, in its August 17, 2020, letter to USAGM, OTF offered to facilitate interviews of its employees, but required that the interviews (1) be arranged through OTF management, to limit "undue disruption of OTF's operation" and; (2) that "an OTF observer (and, if appropriate, OTF's litigation counsel)

³ See, e.g., Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media (Aug. 12, 2020) (on file with author); Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media (Aug. 17, 2020) (on file with author); Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media (Aug. 27, 2020) (on file with author); Letter from Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media to Laura Cunningham, Acting CEO and President, Open Technology Fund (September 8, 2020).

⁴ Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media, at 4 (Aug. 17, 2020) (on file with author).

⁵ Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media, at 3 (Aug. 27, 2020) (on file with author).

⁶ *Id.*

[] be present.”⁷ It is our understanding that no interviews have taken place despite this offer and USAGM’s numerous requests. As such, OTF’s failure to allow USAGM to interview its employees pursuant to Article XII of the FY-20 Grant Agreement and 2 C.F.R. § 200.336 may serve as an additional basis for debarment.

We conclude that these actions to limit access to records and employees could justify an exercise of discretion to debar OTF. As explained, an organization may be debarred for a “[v]iolation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program.” 22 C.F.R. § 513.305(b). This includes “[a] willful failure to perform in accordance with the terms of one or more public agreements or transactions,” “[a] history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions,” or “[a] willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction.” 22 C.F.R. § 513.305(b)(1)–(3). OTF’s actions to limit access to records and information about its performance likely violates the terms of its grant agreement. These violations could threaten the integrity of the program because they compromise USAGM’s ability to confirm that OTF is performing adequately and complying with relevant requirements.

IV. Conclusion

Despite our limited access to information and OTF’s lack of cooperation, there is evidence of OTF’s lack of transparency and refusal to cooperate with USAGM, contrary to the FY-2020 Grant Agreement and related federal regulations. The identified potential destruction of documents, withholding of information, and resistance to oversight have hampered USAGM’s ability to ensure that OTF performs under the grant agreement and complies with the agreements terms, and can serve as a basis for debarment. The ultimate debarment decision rests with the debarring official and facts and considerations beyond the scope of this investigation may be relevant to any debarment decision.

⁷ Letter from Laura Cunningham, Acting CEO and President, Open Technology Fund, to Mora Namdar, Senior Advisor to the CEO and Acting Vice President for Legal, Compliance, and Risk, U.S. Agency for Global Media, at 4-5 (Aug. 17, 2020) (on file with author).

TO: USAGM - Compliance Review File

DATE: December 10, 2020

RE: Open Technology Fund Project Workstream

The U.S. Agency for Global Media (“USAGM”) has retained McGuireWoods to conduct a series of compliance reviews focusing on potential instances of statutory, regulatory or policy violations by current and former officers, directors and employees of USAGM and its networks (including non-Federal entity grantees). This memorandum assesses the use of resources by the Open Technology Fund (“OTF”)—an entity that receives grant funds from USAGM—for potential legal violations and waste.

Many OTF projects appear to have failed to advance the circumvention of online censorship. Unfortunately, a full review of OTF’s investment has not been possible given the limitations on the data we currently have because of OTF’s refusal to provide documents or personnel for review. Based on what is available, many projects do not appear to have produced any results. Other projects likely could have been fully funded by other entities involved in the projects. And some projects had no clear relationship to avoiding censorship online.

Critically, the issues revealed by our investigation were also identified in a 2015 audit by the Department of State Office of the Inspector General. The Inspector General made a number of recommendations to address these issues. But the issues with OTF’s use of grant funds have continued following that investigation. A previous memorandum from McGuireWoods dated November 19, 2020 covered the record destruction practices of OTF and its former President, Libby Liu. Those findings relate to numerous considerations of OTF’s efficacy and may contribute to any overall assessment of OTF.

Part I provides a summary of our findings regarding OTF use of funds and responsiveness to prior investigation and findings of inadequate oversight. Part II provides detailed interim findings from our investigation of available documents and public data about OTF activities. Part III provides analysis of USAGM’s funding obligations and right to change OTF funding.

I. SUMMARY FINDINGS

USAGM, formerly known as the Board of Broadcast Governors, oversees all government funded civilian international broadcasting. Its mission is “to inform, engage, and connect people around the world in support of freedom and democracy.”¹ The agency is headed by a Chief Executive Officer.² The Chief Executive Officer has authority “to make and supervise grants and cooperative agreements.”³

Radio Free Asia is a statutorily-created broadcasting organization overseen by USAGM.⁴ RFA’s goal is to “provide accurate and timely information, news, and commentary about events in Asia and elsewhere,” and “be a forum for a variety of opinions and voices from within Asian nations whose people

¹ Mission, United States Agency for Global Media *available at* usagm.gov/who-we-are/mission/.

² 22 U.S.C. § 6203(b).

³ 2 U.S.C. § 6204(a)(5).

⁴ 22 U.S.C. § 6208(a).

do not fully enjoy freedom of expression.”⁵ RFA is funded through grants from USAGM. Any grant made to RFA must require “that grant funds be used only for activities consistent with” the statutory section governing RFA.⁶

RFA created OTF in 2012. OTF receives and distributes grant funds from the United States Agency for Global Media. OTF works to assist in the development of technologies to circumvent censorship online. Until 2019, OTF continued as a program within RFA. During that time, Libby Liu served as the President of RFA and OTF.⁷ In November 2019, OTF announced that it had “become an independent non-profit corporation.”⁸

RFA receives grant funding from USAGM each year. As a condition of those grants, RFA enters a grant agreement that governs its use of funds. Those grant agreements have usually required that RFA “may use Grant Funds solely for planning and operating expenses related to international broadcasting and administration thereof.”⁹

USAGM’s grant agreements with RFA have also incorporated specific requirements for the use of grant funds by OTF. For example, a 2013 Grant Amendment provides \$600,000 to RFA “for Internet Anti-Censorship Funding during FY2013,” and explains that a total amount of “\$4,300,00 was made available (‘Internet Anti-Circumvention Funding’) to Radio Free Asia for costs associated with expanding unrestricted access to information on the Internet.”¹⁰

For the past two years, the grant agreements have included more specific instructions for the use of OTF funds. A 2019 Amendment provides that RFA “shall consult with the CEO & Director of USAGM in development projects to be funded with Internet Freedom Funding and, upon request, shall make available for inspection to the CEO/Director or his designee all requests for proposals, requests for information or contractual undertakings involving such funding.”¹¹ The 2020 Grant Agreement provides that OTF should use funds for “anti-censorship and secure communication tools to meet Agency and Network requirements for a period starting on May 15, 2019 and lasting for at least five months.”¹² The Agreement further provides that that “balance shall be used to provide digital security support to the USAGM networks to provide facilitation for the USAGM Reporters Internet Freedom Dialogue event.”¹³ The 2020 Agreement also specifies that “[o]f the \$3,088,320 of the no-year funds provided . . . up to \$3,000 shall be used to support Internet freedom projects” and “[t]he remainder shall be used to fund OTF salaries and operations.”¹⁴

A. 2015 Inspector General Investigation Revealed Problems with OTF

In 2015, the United States Department of State Office of Inspector General (the “OIG”) concluded an audit of Radio Free Asia expenditures.¹⁵ This audit aimed to assess the extent to which RFA “used OTF

⁵ 22 U.S.C. § 6208(b).

⁶ 22 U.S.C. § 6208(c)(4).

⁷ OTF’s History *available at* opentech.fund/about/our-history/.

⁸ A New, Independent OTF *available at* opentech.fund/news/new-independent-otf/.

⁹ *See, e.g.*, H56114-0077-061694, FY2012 RFA Grant Agreement.

¹⁰ H56114-0102-064718, FY2013 RFA Grant Amendment No. 3a.

¹¹ H56114-0001-056038, FY2019 RFA Grant Amendment No. 16.

¹² H56114-0007-036269, FY2020 OTF Grant Agreement.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ United States Department of State Office of Inspector General, Audit of Radio Free Asia (June 2015) *available at* oversight.gov/sites/default/files/oig-reports/aud-fm-ib-15-24.pdf.

resources to accomplish program priorities,” “complied with Federal procurement requirements and internal procurement processes for awarding OTF contracts,” “returned unused, unobligated funds to [the Board of Broadcast Governors] at the end of the fiscal year,” and “used grant funds provided by BBG in accordance with Federal regulations and the grant agreement.”¹⁶

Before the OIG’s final report issued, Paul Kollmer-Dorsey, BBG’s General Counsel, prepared a memorandum on the report, as well as recommendations to address the issues included in the then-draft report, for the BBG Board.¹⁷ The memorandum was included in the Board’s briefing book for its February 2015 meeting. The memorandum noted that the IG had identified significant problems with RFA’s internet anti-censorship activities. These problems included a lack of guidance to RFA on use of anti-censorship funds, a lack of oversight of RFA’s use of funds, problems with the implementation of OTF including conflict of interest issues and violations of grant regulations, and the Board’s prevention of oversight of RFA’s anti-censorship activities after being informed of the need for oversight.¹⁸

The memorandum recommended that the Board take six actions. First, it recommended that the Board request a briefing with the IG’s audit team to ascertain the full extent of the problem. Second, it recommended that the Board inquire whether there was a sufficient basis for a review of audited anti-censorship expenditures for fraud or other criminal violations. Third, it recommended that BBG provide no further funding for OTF activities until the problems identified by the IG had been addressed. Fourth, it recommended the immediate implementation of an adequate grant oversight mechanism. Fifth, it advised the Board to avoid activities that could be construed as seeking to identify or punish whistleblowers. Sixth, it advised the Board to set the tight ton on compliance and ethics.¹⁹

It is unclear what actions were taken in response to any of these recommendations. The Chairman’s notes reflect a discussion of the IG’s preliminary findings.²⁰ But there is no indication that the Board implemented any of the recommendations to address those findings.

In the final report, OIG reached five conclusions. It first found that “BBG did not have a well-defined structure to monitor grantee activities.”²¹ Second, the IG found that “BBG did not provide sufficient guidance to RFA describing BBG’s OTF strategies or program priorities.”²² Instead, the grant agreement with RFA provided only that funds “should be used to ‘promote and implement’ BBG ‘strategy and policy.’”²³ This vague instruction made it impossible to ensure that RFA used funds to achieve BBG goals. Third, the IG found that “RFA did not comply with Federal procurement requirements for grantees” and “did not comply with its own internal procurement process.”²⁴ These defects led to OTF entering contracts that did not comply with conflict-of-interest rules. They also made it impossible to determine whether “BBG and RFA received fair value for OTF projects.”²⁵ Fourth, the IG found that OTF had not returned unused funds at the end of the year as required.²⁶ Fifth, the IG found that some RFA personnel expenditures violated federal law and grant requirements.²⁷

¹⁶ *Id.* at 8.

¹⁷ H56114-0097-0000125.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ H56114-0097-0000126.

²¹ *Id.* at 8–9.

²² *Id.* at 14.

²³ *Id.*

²⁴ *Id.* at 16.

²⁵ *Id.* at 16–17.

²⁶ *Id.* at 32.

²⁷ *Id.* at 38.

The IG made several recommendations that are relevant to this investigation. To remedy the inadequate grant structure, the IG recommended that BBG provide a specific written explanation of its grant monitoring structure that documented the roles and responsibilities of the parties involved. The IG also recommended the implementation of a comprehensive grant oversight program and a training program for employees involved in grant oversight. And the IG recommended the designation of a grants analyst to monitor RFA.²⁸

The IG made two recommendations to address the insufficient guidance on the use of OTF funds. First, the IG recommended the development of a “framework describing how Radio Free Asia should use Internet anti-circumvention funds.”²⁹ Second, the IG recommended that revision of the grant agreement with RFA to include guidance on this framework.³⁰

The IG recommended several steps to address the insufficient guidance for the use of OTF resources. To begin, the Inspector General recommended the adoption of supplemental procedures to ensure that OTF’s use of resources complied with federal requirements and training to ensure that RFA employees understood those supplemental procedures. And the Inspector General recommended that BBG instruct RFA to ensure that its employees complied with conflict-of-interest requirements.³¹

The IG also made two recommendations focused on BBG oversight of OTF activities. The IG first recommended that BBG adopt a process to ensure that OTF’s use of resources complied with proper procedures. The IG also recommended that BBG implement a process for the selection of OTF projects that involved both BBG and RFA officials.³²

BBG agreed with most of the IG’s recommendations.³³ For example, BBG agreed to the processes and training recommended to address the BBG’s lack of adequate procedures to oversee grantees.³⁴ When BBG agreed with the IG’s recommendation, the IG considered that recommendation “resolved” and explained that it could be “closed” after the IG confirmed that BBG had implemented the recommendation.³⁵ The IG’s Report does not provide any information on the implementation on these procedures.

But RFA and the IG disagreed about some of the recommendations to address RFA’s failure to comply with procurement requirements. In response to the IG’s recommendation that RFA implement supplemental procurement policies for OTF, RFA said that it had a procurement policy and that it “believe[d] that . . . departures were ‘primarily matters of insufficient documentation rather than substantive ones.’”³⁶ The IG disagreed with this characterization, explaining that there was “significant noncompliance with Federal requirements related to competition; cost and price analyses; conflict of interest; and, to a lesser degree, contract administration.”³⁷ As a result, it was “difficult to ensure that RFA used resources it received from the Government in a cost-effective manner.”³⁸

²⁸ *Id.* at 12–14.

²⁹ *Id.* at 15.

³⁰ *Id.* at 16.

³¹ *Id.* at 30–31.

³² *Id.* at 31.

³³ *See, e.g., id.* at 12–14, 14–15.

³⁴ *See id.* at 12–14.

³⁵ *See, e.g., id.*

³⁶ *Id.* at 29.

³⁷ *Id.* at 30.

³⁸ *Id.*

RFA also disagreed with the recommendation that the BBG adopt a process involving both BBG and RFA employees to select OTF projects.³⁹ RFA argued that the IG's recommendation might violate federal procurement procedures recognizing that an awarding agency is not a party to a procurement contract under a grant. RFA also argued that the recommendation might cause BBG to use an intermediary to perform actions it could not perform directly.⁴⁰ The IG disagreed, and explained that it was "ultimately BBG's decision on how best to accomplish the intent of the recommendation."⁴¹

Despite the recommendations from both BBG's General Counsel and the OIG, it is unclear what corrective actions the Board took, if any, to address the issues identified by the IG's investigation. Our investigation did not identify evidence of any serious efforts to implement the recommendations raised by Kollmer-Dorsey or in the OIG report, or to otherwise reform OTF-related practices in the wake of the report.

B. OTF Has Consistently Invested in Projects that Do Not Appear to Have Produced Results

As an initial matter, we reviewed OTF's expenditures to assess the use of OTF resources. In conducting this review, our access to non-public OTF materials was limited because OTF has not yet made any custodial materials available for review. As a result, we relied on publicly available information including annual and monthly reports issued by OTF. We also relied on documents received from USAGM like the Grant Agreements with RFA.

OTF's refusal to provide documents limited our ability to assess OTF's activities. Relying on OTF's public reports about its projects, we assessed the sources of funding and results of projects supported by OTF. Our review suggests that there is still substantial waste in OTF funding despite the IG's previous findings and recommendations.

1. OTF Invested in Projects that Produced No Result.

OTF has funded many projects that have not produced any result based on reports from OTF and publicly available information. For example, OTF provided Freedom 2 Connect (F2CF)/Berkeley Anti-Censorship Lab and Incubator with \$1.2 million in funding in 2012 and 2013. OTF described the project as an "[i]ncubator for hyper-local circumvention tools in China and testbed for secure mobile apps." Some members of RFA's Advisory Board objected to these gifts. One member explained that Freedom 2 Connect's work seemed extraneous to OTF's mission. Another noted that the project was unlikely to succeed. OTF's annual reports did not identify any specific tools developed or identify any successes of Freedom 2 Connect. The project dissolved in 2016.

In the 2015 Report, the Inspector General noted that this investment in Freedom 2 Connect also involved apparent conflicts of interest. Libby Liu founded Freedom 2 Connect in 2011. Although she said that she disassociated from Freedom 2 Connect after it was established, her conflict of interest form for 2012 listed her as an advisor to Freedom 2 Connect. RFA employees also served as the Secretary and Treasurer of Freedom to Connect.

OTF's investment in projects that did not produce any result continued after the Inspector General's report. Serverside Blocking is one example. In 2017, OTF invested \$250,000 in Serverside Blocking.⁴²

³⁹ *Id.* at 32.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Open Technology Fund, FY 2017 Annual Report, at 20 available at public.opentech.fund/documents/FY2017_OTF_Annual_Report_T9MV2zf.pdf.

This project was intended to investigate “the role of private sector actors such as VPN providers, content delivery networks (CDNs) and other server operators play in carrying out state-mandated censorship.”⁴³ Specifically, OTF explained that Serverside Blocking was working to “develop scientifically rigorous measurement methods to detect server-side blocking,” “build a system to continuously and globally collect data on the phenomenon,” “curate tools for mapping and comparative analyses of the data,” and “provide the raw data and relevant analysis in a centralized and easily accessible repository.”⁴⁴ This project has not been completed. In fact, the project’s website still states that “[t]he study is currently under development.”⁴⁵

OTF’s investment in Security Support for Sexual Minorities in Nigeria also produced no tangible results. OTF’s 2018 Annual Report explained that the project “provides security trainings to a network of highly-targeted LGBTQI organizations in Nigeria, helping them to build capacity for human rights defenders to protect members of these at-risk communities from digital harm.”⁴⁶ One of the goals of the project was to “conduct[] a device and risk assessment for a network of LGBTQI organizations in Nigeria” that would “help inform what areas need the most focus or improvement going forward.”⁴⁷ OTF invested \$120,000 in the project. OTF has not provided the findings of any risk assessment or the results of any trainings.

Many other projects supported by OTF similarly failed to produce any results. OTF invested \$90,000 in Clatter, “a suite of extremely lightweight and standalone libraries, which aims to create common protocols and standards for existing projects to add in secure nearby communications without having to sacrifice their unique approach and use-cases.”⁴⁸ OTF has not provided any information on the project since its announcement. OTF invested \$90,000 in CiviCDR, a project intended to “creat[e] a platform to efficiently coordinate incident response and facilitate information sharing about collective threats and appropriate responses.”⁴⁹ OTF has not provided any update on the project. OTF invested \$61,497 in Digital Security Skill Building for Grassroots NGOs in Chiapas, a project “working to develop an improved methodology for digital security training and support with grassroots organizations.”⁵⁰ OTF has not provided any further information on the project. OTF invested \$145,190 in Security Training and Support for LGBTIQ Communities and Allies in Indonesia, a project to “provid[e] various levels of digital security training, as well as mentoring and technical guidance to help build crisis management systems and better organizational security policies.”⁵¹ OTF has not reported any information on this project. OTF provided \$119,980 in funding for Ukraine Censorship Monitoring. This project sought to “document the systematic blocking of websites in Ukraine and reveal the extent to which such censorship is occurring.”⁵² The project has not been completed. OTF invested \$108,100 in Open Integrity Index, “a platform allowing the

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ <https://vpnalyzer.org>.

⁴⁶ Open Technology Fund, FY 2018 Annual Report, at 31 *available at* public.opentech.fund/documents/OTF_FY2018_Annual_Report_FINAL.pdf.

⁴⁷ Open Technology Fund, November 2018 Monthly Report *available at* opentech.fund/news/November-2018-monthly-report/.

⁴⁸ Open Technology Fund, June 2016 Monthly Report *available at* opentech.fund/new/june-2016-monthly-report/.

⁴⁹ Open Technology Fund, FY 2017 Annual Report, at 15 *available at* public.opentech.fund/documents/FY2017_OTF_Annual_Report_T9MV2zf.pdf.

⁵⁰ Open Technology Fund, FY 2018 Annual Report *available at* public.opentech.fund/documents/OTF_FY2018_Annual_Report_FINAL.pdf.

⁵¹ Open Technology Fund, FY 2018 Annual Report, at 32 *available at* public.opentech.fund/documents/OTF_FY2018_Annual_Report_FINAL.pdf.

⁵² Open Technology Fund, FY 2018 Annual Report, at 33 *available at* public.opentech.fund/documents/OTF_FY2018_Annual_Report_FINAL.pdf.

collaborative fact-checking of software security and privacy claims.”⁵³ OTF’s goal was “launching a beta version of the site that includes assessments of 25 tools to provide reliable and evidence-based answers to common questions.”⁵⁴ We have been unable to locate that site.

2. *OTF Invested in Projects that May Have Had Adequate Support from Other Organizations.*

OTF has also funded many projects that received funding from other sources. Often these projects were funded by private businesses that likely could have adequately funded the project. In other cases, these projects received funding from nonprofits or other government entities. When funding these projects, it is not clear whether OTF assessed the extent to which funds provided by OTF were likely to contribute to the success of the project and could not be obtained from other sources.

For example, OTF provided MassBrowser—a tool to help circumvent Internet censorship—with \$91,660 in 2019. This funding was to support “the development of a final release desktop version of MassBrowser as well as an Android version.”⁵⁵ But the group developing MassBrowser, the Secure, Private Internet (SPIN) Research Group at the University of Massachusetts Amherst, has received large grants from other organizations. Since 2016, SPIN has obtained \$5,780,000 in grants from the National Science Foundation. And it has received another \$600,000 in funding from the Defense Advanced Research Projects Agency. OTF’s grants were among the smallest received by the SPIN Group.

In many other cases, OTF funded projects that also received funding from other organizations, but it is not clear how much support those projects received from the other organizations. The other organizations involved, however, had adequate resources to fully fund the projects. For example, OTF provided \$250,000 for the Internet Freedom Festival. That project had a number of other sponsors including Facebook, Twitter, Mozilla, and the Ford Foundation. OTF also provided \$48,850 for the Forum on Internet Freedom in Africa, which also received funding from the Mozilla Foundation, Ford Foundation, and Open Society Foundations. And OTF provided \$45,158 in funding for the Citizen Lab Summer Institute in 2018. That project also received funds from the MacArthur Foundation and Connaught Fund.

These appear to be only a few examples of the many projects that received funding from OTF and other sponsors. In 2017 and 2018, many OTF projects also received funding from other sponsors. See Table 2, part III, below listing dozens of projects with alternative funding sources.

Based on publicly available information, it is not clear what substantive standards or process OTF followed when making these grants. For example, it is not clear whether OTF considered whether OTF funds were needed to make a project successful. Nor is it clear whether OTF considered whether other organizations could provide adequate funding to achieve the goals of the project.

3. *OTF Has Funded Some Projects that Have No Clear Relationship to Its Mission.*

OTF has funded some projects that do not seem to relate to its mission. For example, OTF provided \$20,000 in funding for “Cartoon and Design Services” in 2018.⁵⁶ These funds were used to hire “an

⁵³ Open Technology Fund, FY 2016 Annual Report, at 22 *available at* public.opentech.fund/documents/2016_otf_annual_report.pdf.

⁵⁴ *Id.* at 23.

⁵⁵ <https://www.opentech.fund/results/supported-projects/massbrowser>.

⁵⁶ Open Technology Fund, FY2018 Annual Report, at 49 *available at* public.opentech.fund/documents/OTF_FY2018_Annual_Report_FINAL.pdf.

independent designer, cartoonist, and consultant working at the intersection of storytelling, technology, and social change.”⁵⁷

The same year OTF provided \$20,000 for “Chad B. Anderson Editing and Writing.”⁵⁸ These funds went to Chad B. Anderson, “a freelance editor and writer.”⁵⁹ Along with a partner, Anderson helped “OTF-supported projects draft, edit, and fine-tune written outputs such as reports, web content, and blog posts.”⁶⁰ OTF has not provided any explanation of how these projects will advance its mission.

II. INTERIM INVESTIGATION FINDINGS

Issue Presented:

- Whether the Open Technology Fund (“OTF”) appropriately funded projects from its inception in 2012 to the present, pursuant to the relevant appropriations statutes, grant agreements and other relevant authorities.
 - Our analysis to date has not involved a comprehensive review of all OTF-funded activities, but rather a sampling designed to provide a quick directional view as to: (i) whether OTF’s funding appears to have created value and return on investment over time, (ii) whether there have been any obvious misuses of grant funding and (iii) whether there are indications of misalignment that would merit a more detailed agency analysis of OTF’s funding activities.
 - Our interim assessment is that while OTF’s project funding does appear to have resulted in a clear return of value in many cases, our sampling did identify a significant number of projects for which OTF’s sponsorship is questionable in terms of alignment with the intent of the underlying appropriations. It also identified numerous examples where there is no indication of value having been secured by the investment.
- Our efforts to review these issues have been limited by the antagonistic posture between USAGM and OTF (who are currently in litigation over funding and other matters). OTF has not provided documents or made its employees available for interviews. Our investigation was also limited by questionable handling of the e-mail files of past RFA President and past OTF CEO Libby Liu. The mishandling of Liu’s e-mails is discussed in more detail below.

Background

- Radio Free Asia (“RFA”) and OTF are two of the media organizations that receive grant funding from the USAGM. OTF began as a program within RFA but now operates as an independent organization. OTF helps fund and support technology tools and resources to circumvent internet censorship and surveillance, which originally grew out of efforts to circumvent the “Great Firewall of China.” The Office of Internet Freedom (“OIF”) is a component of USAGM that serves an oversight function over OTF.
- Libby Liu served as the President of RFA from 2012 until November 2019, when she was removed from her position at RFA and became the first CEO of the newly stand-alone OTF. She was the functional head of OTF from its creation until her departure.
- Liu resigned as OTF CEO in June 2020.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

- RFA and OTF were the subject of a 2015 State Department OIG report that identified significant potential conflict of interest and financial mismanagement issues. This includes persons in management or advisory board positions making grant approval decisions in connection with the award of funding to organizations with which they were closely affiliated, and improper sole-sourcing without appropriate competition for grant funding. There have been subsequent allegations of other potential mismanagement within those organizations. There have been other allegations that OTF lacks transparency in its operations and has made it challenging for USAGM to obtain adequate accounting of its operations, including failing to provide sufficient information to OIF for project/fund approval and not returning unused funds in accordance with their grantee agreement. Questions remain as to whether the identified issues were ever adequately reviewed and addressed.
- In addition, allegations have been raised that OTF funded certain projects that were not supportive of USAGM because they did not facilitate the delivery of content and, therefore, were improper recipients of OTF grant money. The original intent of OTF was to receive grant money to develop technology tools for USAGM networks to circumvent internet censorship efforts by repressive regimes and deliver content to the populations living under the regimes. These allegations contend that OTF instead funded projects aimed at generally developing internet access among impoverished populations (sometimes called “civil society” projects). Such projects are primarily within the purview of the State Department’s Bureau of Democracy, Human Rights and Labor (“DRL”), not that of OTF, though there can be some overlap between these two concepts. We understand that individuals within several USAGM networks (specifically Radio Free Europe and Radio Liberty) have voiced concerns that they lacked the technology to circumvent internet censorship because the tools sponsored by OTF were not helpful.

Individuals Potentially Implicated:

- Libby Liu (OTF Co-Founder and former President of RFA)
- Dan Blah (OTF Co-Founder)
- Heidi Pilloud (CFO of OTF)
- Bay Fang (RFA President)
- Nat Kretchun (VP for Programs at OTF)
- Laura Cunningham (OTF)
- Lauren Turner (OTF)
- Bernadette Burns (RFA General Counsel)

Statutes and Regulations Potentially Implicated:

- 22 U.S.C. § 6204 (stating the CEO has the authority to “make and supervise grants and cooperative agreements for broadcasting and related activities in furtherance of the purposes of this chapter and on behalf of other agencies, accordingly”) (emphasis added).
- Internet Freedom (“IF”) appropriations statutes, which allocate funds to USAGM by Congress.
 - FY-2013 - Continuing Appropriations Resolution, 2013 (P.L. No. 112-175)⁶¹ and Consolidated and Further Continuing Appropriations Act, 2013 Public Law No. 113–6, 127 STAT. 254⁶²

⁶¹ <https://www.govinfo.gov/content/pkg/PLAW-112publ175/pdf/PLAW-112publ175.pdf>

⁶² <https://www.congress.gov/113/plaws/publ6/PLAW-113publ6.pdf>

- FY-2014 - Consolidated Appropriations Act, 2014 Public Law No: 113-76, 128 Stat. 471⁶³
- FY-2015 - Consolidated Appropriations Act, 2016, P.L. 114-113, Page 129 STAT. 2712⁶⁴
- FY-2016 - S.2130 - An Act Making Appropriations for National Security and for Other Purposes, Fiscal Year 2016 114th Congress (2015-2016), Global internet freedom Sec. 7078 (b)(3)⁶⁵
- FY-2017 - Section 7078 of the Consolidated Appropriations Act, 2017 (7078 PP.L. 115-31)⁶⁶
- FY-2018 - Section 7078 of the Consolidated Appropriation Act, 2018 (P.L. 115-141)⁶⁷
- FY-2019 - Section 7065 of the Consolidated Appropriations Act, 2019 (P.L. 116-6)⁶⁸
- FY-2020 - Section 7050 of the Further Consolidated Appropriation Act, 2020 (P.L. 116-94)⁶⁹

Agency Policies/Procedures/Reports Potentially Implicated:

- Grant Agreements between USAGM and RFA.
 - 2012 Grant Agreement states that RFA “may use the Grant Funds solely for planning and operating expenses related to international broadcasting and administration thereof.”⁷⁰
 - 2013 Grant Amendment states that “[i]n addition to the Grant Funds granted in the FY 2013 Grant Agreement, the Broadcasting Board of Governors (“BBG”) hereby grants an additional amount of \$600,000 to Radio Free Asia (“RFA”) for Internet Anti-Circumvention Funding during FY 2013. With the additional amount granted under this amendment, the total amount available is \$ 41,459,000, of which the amount of \$ 4,300,000 was made available (“Internet Anti-Circumvention Funding”) to Radio Free Asia for costs associated with expanding unrestricted access to information on the Internet as discussed on September 25, 2013. Except as otherwise expressly provided herein, the other provisions of the FY 2012 Grant Agreement shall remain in full force and effect.”⁷¹
 - 2014 Grant Agreement states that RFA “may use the Grant Funds solely for planning and operating expenses related to international broadcasting and administration thereof. The Grant Funds are provided solely for the purposes and in the amounts approved by BBG and as set forth In the Approved Financial Plan (as such term is defined in Article VI hereof and subject to the review procedures and adjustments described therein).”⁷²
 - 2015 Grant Agreement states that RFA “may use the Grant Funds solely for planning and operating expenses related to international broadcasting and administration thereof. The Grant Funds are provided solely for the purposes and in the amounts approved by BBG and as set forth in the Approved Financial Plan (as such term is defined in Article VI hereof and subject

⁶³ <https://www.congress.gov/113/plaws/publ76/PLAW-113publ76.pdf>

⁶⁴ <https://www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf>

⁶⁵ <https://www.congress.gov/bill/114th-congress/senate-bill/2130/text>

⁶⁶ <https://www.congress.gov/115/plaws/publ31/PLAW-115publ31.pdf>

⁶⁷ <https://www.congress.gov/115/plaws/publ141/PLAW-115publ141.pdf>

⁶⁸ <https://www.congress.gov/116/plaws/publ6/PLAW-116publ6.pdf>

⁶⁹ <https://www.congress.gov/116/plaws/publ94/PLAW-116publ94.pdf>

⁷⁰ H56114-0077-061604, FY2012 RFA Grant Agreement.

⁷¹ H56114-0102-064718, FY2013 RFA Grant Amendment No. 3a.

⁷² H56114-0102-064896, FY2014 RFA Grant Agreement.

- to the review procedures and adjustments described therein) for the Fiscal Year 2015 Continuing Resolution period (FY'2015 CR).⁷³
- 2016 Grant Agreement states that RFA is required to maintain records “in order to comply with the terms and conditions of this Agreement, including bid solicitations, evidence of shipment for commodities and procurement and service contracts, shall be maintained by Grantee for a period of three (3) years from the date of the submission of the final expenditure report, in a manner that will permit verification of Grantee's compliance with its representations, warranties, and obligations contained in this Agreement.”⁷⁴
 - 2017 Grant Amendment states “the additional amounts granted under this Grant Agreement Amendment, the total amount made available under this FY 2017 Grant Agreement is \$23,678,149, of which \$2,190,413 is for internet freedom and circumvention activities. Funds are made available pursuant to the Further Continuing and Security Assistance Appropriations Act, 2017, P.L. 114-254 (Note: Of the Internet Freedom Funds provided under this Grant, \$1,240,413 were appropriated under the Consolidated Appropriations Act, 2016, P.L. 114-113).”⁷⁵
 - 2018 Grant agreement states that RFA “may use the Grant Funds solely for planning and operating expenses related to international broadcasting and administration thereof.” RFA is also required to maintain “all records required to be kept in order to comply with the terms and conditions of this Agreement, including bid solicitations, evidence of shipment for commodities and procurement and service contracts, shall be maintained by Grantee for a period of three (3) years from the date of the submission of the final expenditure report, in a manner that will permit verification of Grantee’s compliance with its representations, warranties, and obligations contained in this Agreement. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until such litigation, claim or audit has been resolved.”⁷⁶
 - 2019 Amendment states that RFA “shall consult with the CEO & Director of the USAGM in development projects to be funded with Internet Freedom Funding and, upon request, shall make available for inspection to the CEO/Director or his designee all requests for proposals, requests for information or contractual undertakings involving such funding, at RFA’s offices.”⁷⁷
 - 2020 Grant Agreement states that OTF shall use the grant funds for “anti-censorship and secure communication tools to meet Agency and Network requirements for a period starting on May 15, 2019 and lasting for at least five months. The balance shall be used to provide digital security support to the USAGM networks and to provide facilitation for the USAGM Reporters Internet Freedom Dialogue event. (2) Of the \$3,088,320 of the no-year funds provided by the Further Consolidated Appropriations Act, 2020, P.L. 116-94 (December 20, 2019), up to \$3,000,000 shall be used to support Internet freedom projects. The remainder shall be used to fund OTF salaries and operations.”⁷⁸ 2020 Grant Amendment provided additional funds to OTF to support Internet freedom projects.⁷⁹

⁷³ H56114-0102-039489, FY2015 RFA Grant Agreement.

⁷⁴ H56114-0102-010433, FY2016 RFA Grant Agreement.

⁷⁵ H56114-0102-062713, FY2017 RFA Grant Amendment No. 7.

⁷⁶ H56114-0001-020556, FY2018 RFA Grant Agreement.

⁷⁷ H56114-0001-056038, FY2019 RFA Grant Amendment No. 16.

⁷⁸ H56114-0007-036269, FY2020 OTF Grant Agreement.

⁷⁹ H56114-0001-053740, FY2020 OTF Grant Amendment.

Investigative Activities:

Custodial Document Review:

- We have collected and are in the ongoing process of reviewing the e-mails of numerous USAGM and RFA custodians. Using targeted search terms related to OTF projects, fellowships, labs and conferences, we aimed to create a review set that would allow us to capture information concerning the success of the individual projects.
 - As of the date of this interim report, our review has been limited to USAGM custodian e-mails and communications. RFA has only recently produced custodial e-mails to us, which items remain early in the review process.
 - To date, OTF has not made any custodial materials available for our review.
 - Note further that, as detailed in the summary report for a second workstream, Liu previously instructed RFA to transfer all of her e-mail files from RFA's servers to OTF's servers, and to delete any copies of those e-mails from RFA's servers. Although we are still investigating all of the details of that action, including when the instruction was given and who complied with it, the end result is that RFA has no records of any of Liu's e-mails and we are therefore unable to examine what may still reside on OTF's servers.
- As a result of the foregoing limitations, we have been forced to conduct this review without the benefit of the level of project award and program performance documentation necessary to reach more definitive conclusions.⁸⁰

Interviews:

- We interviewed Bernadette Burns, General Counsel of RFA, regarding the Freedom 2 Connect Foundation and OTF's related funding of a project at UC-Berkeley.

Other Sources of Information:

- We reviewed OTF's annual reports from FY-2012 to FY-2018.⁸¹
- Thereafter, we reviewed all projects to determine which project descriptions did not appear, on their face, to be in accordance with statutory requirements for funding. We reviewed those project websites, as well as publicly-available financial information and news reports to determine their success and other potential sources of funding.
- We reviewed the remaining project websites to obtain information about additional funding sources. Our review of project websites, as well as of their parent organizations, revealed limited information regarding other funding sources.

⁸⁰ Pursuant to the USAGM Standard Operating Procedures for Monitoring Grants, OTF is required to submit supporting documentation for its activities such as Monthly Federal Financial Reports via Standard Form 425 ("SF-425"), Statements of Obligations and Disbursements ("SODs"), and Performance Progress Reports ("PPRs"). *See* H56114-0006-003751, United States Agency for Global Media Standard Operating Procedures For Monitoring Grants (February 2019) at 10-11, 17. However, the current litigation between USAGM and OTF has placed the parties in an uncooperative posture, limiting our ability to access and assess such reports.

⁸¹ <https://www.opentech.fund/results/annual-reports/>

Interim Findings:

OTF Timeline:

- RFA created OTF as an internal initiative to support IF projects that: (1) “develop open and accessible technologies that support human rights and foster open societies”; and (2) “promote inclusive and safe access to global communications networks.”⁸²
- From 2012 to 2019, RFA received annual funding for OTF from congressional appropriations related to research and development for internet circumvention tools supportive of BBG’s/USAGM’s broadcast activities.⁸³
- On September 20, 2019, OTF was spun off from RFA and incorporated by RFA President Libby Liu as a 501(c)(3) organization under District of Columbia law.⁸⁴ Three days later, on September 23, 2019, OTF adopted its bylaws.⁸⁵
- On September 26, 2019, OTF entered into a grant agreement with USAGM, in which it received an initial grant of \$40,000.⁸⁶ On November 20, 2019, OTF entered into a subsequent grant agreement with USAGM, in which it received an additional grant of \$40,000.⁸⁷
- On November 25, 2019, OTF formally announced that it had appointed Libby Liu, former President of RFA, as its CEO.⁸⁸
- OTF posts annual reports on its website, and has done so each year from FY2012 to FY2018.
- From 2012-2019, OTF had several funds and fellowships through which it funds projects. These funds include the Internet Freedom Fund, Core Infrastructure Fund, Rapid Response Fund, Digital Integrity Fellowship, Information Controls Fellowship and Technology at Scale Fund.
- The Internet Freedom Fund is OTF’s primary source of support for projects.⁸⁹

⁸² Open Technology Fund, Annual Report (2012) at 3.

⁸³ See, e.g., S.2130 - An Act Making Appropriations for National Security and for Other Purposes, Fiscal Year 2016 114th Congress (2015-2016), Global internet freedom Sec. 7078 (b)(3) <https://www.congress.gov/bill/114th-congress/senate-bill/2130/text> (“Funds made available pursuant to subsection (a) shall be...made available to the Broadcasting Board of Governors (BBG) to provide tools and techniques to access the Web sites of BBG broadcasters that are censored, and to work with such broadcasters to promote and distribute such tools and techniques, including digital security techniques”).

⁸⁴ Plaintiff’s Emergency Motion for Injunction Pending Appeal at Exhibit C, *Open Technology Fund, et. al, v. Pack*, No. 20-5195 (D.C. Cir. Jul. 9, 2020).

⁸⁵ *Id.* at Exhibit G.

⁸⁶ *Id.* at Exhibit A.

⁸⁷ H56114-0001-038334, Grant Agreement between OTF and USAGM, dated November 20, 2019.

⁸⁸ Open Technology Fund, [OTF Announces Libby Liu as Inaugural CEO](https://www.opentech.fund/news/otf-announces-libby-liu-as-inaugural-ceo/), (Nov. 25, 2019), <https://www.opentech.fund/news/otf-announces-libby-liu-as-inaugural-ceo/>.

⁸⁹ <https://www.opentech.fund/funds/internet-freedom-fund/>

Project Analyses:

- **Several projects funded by OTF show no indication of having been successful. In several of those cases, there are also questionable ties to the journalism-centric intent behind the formation of OTF and appropriation of its funding.** These projects include:

1. Freedom 2 Connect (F2CF)/UC-Berkeley Anti-Censorship Lab and Incubator

OTF's 2012 annual report states that the research project "expands the [Anti-Censorship] Lab's test-bed to mobility-based tools...[and] allows for real world testing in a variety of configurable network environments. The project also includes incubation of in-country applications and services." In its 2013 annual report, OTF describes the program as an "[i]ncubator for hyper-local circumvention tools in China and testbed for secure mobile apps." OTF funded the project with a \$600,000 annual grant in FY-2012 and FY-2013 (\$1.2 million dollars total). OTF's annual reports for FY-2012 and FY-2013 do not contain any list of tools developed by or supported by the incubator.

Freedom 2 Connect, a foundation formed by Liu nominally in order to facilitate funding of projects using OTF and private funds, was the mechanism through which this project was funded. It was ultimately dissolved on February 22, 2016.⁹⁰

No information is publicly available regarding the success of the incubator and/or circumvention tools that may have been developed by it. In 2015, the U.S. Department of State OIG identified a number of conflict of interest and sub-award issues related to the formation of Freedom 2 Connect and OTF's funding of this project via that organization.⁹¹ In relative terms, the Freedom 2 Connect/UC-Berkeley grant was amongst the largest OTF has made over a two-year period, accounting for 8.8% of OTF's 2012 spend and 14% of OTF's 2013 spend.

2. Clatter

OTF's web page for this project states that "Clatter is a suite of extremely lightweight and standalone libraries, which aims to create common protocols and standards for existing projects to add in secure nearby communication without having to sacrifice their unique approach and use-cases." OTF funded this project in 2016 in the amount of \$90,000. We are unable to locate the suite of "lightweight and standalone libraries," and OTF does not provide information regarding the libraries, or which projects would be impacted. The last time OTF wrote about the project was in its June 2016 Monthly Report, when it announced the project.

3. CiviCDR

OTF's web page on the project states that "[t]he CiviCDR platform strengthens the digital resilience of CSO communities by efficiently coordinating incident response and facilitating information sharing about collective threats and appropriate responses." OTF provided \$90,000 in funding in 2016. However, OTF has not provided any information, such as monthly reports, on this project. We have not been able to locate any information on this project.

4. SeverSide Blocking

OTF's web page on this project states that it "will develop rigorous measurement methods to investigate VPN manipulation, build a system to continuously and globally collect data on the

⁹⁰ E-mail from Vicki Matthews of the D.C. Department of Consumer and Regulatory Affairs to Cindy Smith of McGuireWoods LLP, re: Dissolution of company (October 28, 2020 15:55 EST) (e-mail on file with McGuireWoods LLP).

⁹¹ U.S. DEPARTMENT OF STATE OFFICE OF INSPECTOR GENERAL, AUDIT OF RADIO FREE ASIA EXPENDITURES, at 18 (June 2015), available at <https://www.oversight.gov/sites/default/files/oig-reports/aud-fm-ib-15-24.pdf>.

phenomenon, curate tools for mapping and comparative analyses of the data and provide the relevant analysis in a centralized and easily accessible repository. The project outputs will shed light on the traffic manipulation and discrimination of users using these VPN services and help censorship measurement better isolate the effects.” OTF funded this project in 2017 with \$250,000 in Internet Freedom Funds. However, the project is not completed, as its website states “[t]he study is currently under development.”⁹²

5. Digital Security Skill Building for Grassroots NGOs in Chiapas

OTF’s FY 2018 annual report states that “Grassroots organizations, activists, and independent media are facing increasing surveillance and violence in Mexico. A previous assessment revealed the need for long-term digital security support in addition to security trainings. This project seeks to develop a methodology for a long-term support process accompanying digital security training with grassroots organizations in the region, and sharing the methodology with other digital security trainers.” There is no further information on OTF’s website concerning this project and we have been unable to locate any other information.

6. Security Support for Sexual Minorities in Nigeria

OTF’s web page on this project states that “[t]he project will provide security trainings to a network of LGBTQI organizations in Nigeria, building the capacity of human rights defenders to protect them from digital harm, provide capacity within organizations to maintain and multiply knowledge of organizational safety, documenting the success and failures so that it can be used by other trainers in the infosec community, while looping back and providing feedback to developers of the open source tools which they will use.” OTF provided \$120,000 in Internet Freedom Funds in 2018. OTF’s November 2018 monthly report states that the project “continued conducting a device and risk assessment for a network of LGBTQI organizations in Nigeria, gathering information on staff’s current digital security practices and awareness. This risk assessment will help inform what areas need the most focus or improvement going forward.” However, OTF has not provided any findings of the risk assessment, and we have been unable to locate any additional information.

7. Security Training and Support for LGBTIQ Communities and Allies in Indonesia

OTF’s web page for this project states that the project “will conduct a series of holistic digital security training for several LGBTIQ organizations in Indonesia and their allies. LGBTIQ organizations in the country have faced increasing scrutiny and threats over their work, resulting in attacks both online and off. The project will comprise of basic digital security, refresher and advanced trainings, and mentoring - together acting as the modality to build a crisis management system and organizational security policies. This will ensure a more sustainable practice of security at both personal and organizational levels for all staff of the beneficiary organizations.” OTF provided \$145,190 in Internet Freedom Funds in 2018 to this project. In its December 2019 monthly report, OTF mentioned this project as a new project. OTF has not reported any information on this project and we have not been able to locate any other sources regarding this project.

8. Ukraine Censorship Monitoring

OTF’s web page on this project states that “[t]he All-Ukrainian Internet censorship monitoring project is a project by Digital Security Lab Ukraine, aiming to establish a sustainable system for monitoring and measuring the Internet censorship in all parts of Ukraine – the main part, annexed Crimea and occupied Donbas region. A network of local testers will do measurements

⁹² <https://vpnalyzer.org/>

using OONI Probe app, Digital Security Lab will analyze and share publicly the results. All the results will be open at Digital Security Lab's website, GitHub page and OONI's slack channel." OTF funded this project in the amount of \$119,980 in 2019. The project is not yet completed and we have been unable to locate any other information concerning the project.

9. Open Integrity Index

The Open Integrity Index "is a collaborative effort to collect and publish verified data about software in order to improve end user security and privacy."⁹³ In 2016, OTF provided \$108,000 in funding to Open Integrity, stating that the project "focus[ed] on launching beta version of site allowing the collaborative fact-checking of software security and privacy claims." OTF funded the project through the Internet Freedom Fund. Open Integrity's website states that OTF funds were "to support the Data Phase of the project during which we will collect and review existing expert information across multiple disciplines about current development practices. This data will cover a range of tools and be kept up to date. It will provide an outlet for independent audits sourced by expert communities. A public website will be launched with an initial set of data in order to solicit feedback from the community." However, we have been unable to locate the website with Open Integrity's initial set of data.

- **Several other OTF-funded projects we reviewed do not appear to correlate with the appropriations statutes' funding limitations.** These projects include:

1. Cartoon and Design Project

In 2018, OTF hired an "independent designer, cartoonist, and consultant working at the intersection of storytelling, technology, and social change." OTF provided the consultant with \$20,000. The purpose of this project is not clear.

2. Chad B. Anderson Editing and Writing Project

In 2018, OTF hired Chad B. Anderson, a freelance editor and writer, paying him \$20,000. OTF's FY 2018 Annual Report states "Chad and partner John Stith help OTF-supported projects draft, edit, and fine-tune written outputs such as reports, web content, and blog posts. In their first year as Learning Lab partners, John and Chad worked with more than ten projects and fellows from across the internet freedom community." It is not clear which projects and fellows were involved, and why these services were needed.

- **Several projects were funded by OTF, but information regarding other funding was not readily available.** Being able to have a transparent view into the funding sources of an OTF-sponsored project is important to an assessment of whether OTF appears to be making sound funding decisions. Those projects include:

1. Claims and Meme Database (CMDb)

OTF describes this project as "a programmer accessible repository of fact-checked claims and debunked visual misinformation from internet repressive countries, where disinformation and social network manipulation have become key censorship strategies, in order to raise awareness of such practices and assist in countering them." OTF provided \$144,850 in 2019 to this project. The project was completed by Meedan, but it is unclear whether the project had other donors.⁹⁴

⁹³ <https://openintegrity.org/framework>

⁹⁴ <https://meedan.com/2019-annual-report/>

2. Internet Outage Detection and Analysis (IODA)

IODA is an operational prototype system that monitors the Internet, in near-real time, to identify macroscopic Internet outages affecting the edge of the network, i.e., significantly impacting an AS or a large fraction of a country.⁹⁵ OTF provided \$199,913 in funding to IODA in 2018, and \$291,725 in 2019, for a total of \$491,638. OTF funded the project through the Internet Freedom Fund. IODA also has received funding from various other sources, including the National Science Foundation, the U.S. Department of Homeland Security, the Internet Society, Comcast, the National Energy Research Scientific Computing Center, XSEDE, Digital Element, San Diego Supercomputer Center, and UC San Diego.⁹⁶ IODA does not list the amount of funding it received from each entity.

3. WireGuard

WireGuard is designed as a general purpose VPN for running on embedded interfaces and super computers alike. It was originally released for the Linux kernel, but now is usable with Windows, MacOS, BSD, iOS, and Android. WireGuard's website states that the software "is currently under heavy development."⁹⁷ OTF provided funding to WireGuard in 2018 in the amount of \$250,000. OTF funded the project through the Internet Freedom Fund. WireGuard accepts donations on its website, and has obtained funding from other sources. Only one other funding source, NLnet Foundation, is a nonprofit like OTF.⁹⁸ WireGuard does not post funding amounts on its website. WireGuard lists Net Protect as one of its funding sources, giving it a "gold" donor rating, however Net Protect is also the parent company of WireGuard's developer, StrongVPN.⁹⁹

- **Several projects we reviewed had readily-available information concerning their funding, appear to be in line with the appropriations statutes and appear to have been successful in their outcomes.** Those projects include:

1. GlobaLeaks

GlobaLeaks is free and open source software that enables anyone to easily set up and maintain a secure whistleblowing platform. OTF provided GlobaLeaks with funding in 2012 in the amount of \$108,400, in 2014 in the amount of \$235,440, and in 2017 in the amount of \$109,167. GlobaLeaks has been funded by other organizations, including the Hivos Foundation for Project Deployments of Whistleblowing Initiatives in the Global South, Transparency International Italy, and Lush Digital Fund, USAID Serbia, and other donations. The donations ranged from €10,000.00 (\$11,800) to €234,000.00 (\$276,400), making OTF an average funder of the project.¹⁰⁰

2. Onions on Apples

Onion on Apples is an open-source, privacy-enhancing Tor-enabled browser for iOS. OTF provided \$174,657 in funding in 2019, stating that the project "will deliver a web browsing experience on par with mainstream mobile browsers, while improving the reliability of Tor on iOS and maintaining the privacy and security features users expect in a 'Tor Browser' app."¹⁰¹

⁹⁵ <https://ioda.caida.org/ioda>

⁹⁶ <https://ioda.caida.org/ioda/acks>

⁹⁷ <https://www.wireguard.com>

⁹⁸ <https://www.wireguard.com/donations>

⁹⁹ <https://strongvpn.blog/a-closer-look-at-wireguard/>

¹⁰⁰ <https://www.globaleaks.org/about-us/friends-and-sponsors>

¹⁰¹ <https://www.opentech.fund/results/supported-projects/onions-apples/>

The app is available for download. A 2019 article suggested that OTF was the sole source of funding for the project.¹⁰²

3. OpenAppStack

OpenAppStack is an application intended to automate the secure deployment and maintenance of free and open tools, to provide more secure and specialized single-tenant online services. OTF provided OpenAppStack with \$267,991 in 2018, and OpenAppStack gives credit to only OTF for funding, stating “[t]he project is run by Greenhost in collaboration with eQualit.ie and funded by OTF.”¹⁰³ Greenhost is a cloud server and eQualit.ie is a website security company. The project is currently in beta, and users must contact the developer to try the application. OTF funded the project through the Internet Freedom Fund.

4. Journalists in Distress

Journalists in Distress is a website of tips and resources for journalists to protect themselves against digital vulnerabilities from State and non-State actors. The project was a “six-month data collection, assessment, and knowledge sharing effort.”¹⁰⁴ The project’s website lists it as being created through funding from OTF.¹⁰⁵ The website is running and has resources for journalists. OTF provided \$32,735 in funding in 2016.

- **OTF frequently funds projects in which multiple funding sources are involved, including other non-profit, government and corporate partners.** It is not clear whether and to what extent OTF has assessed whether its funding strategy for these projects has been aligned with the purpose of the applicable appropriations statutes, and whether its funding has been well leveraged to create a return to OTF and USAGM on the investment being made.
 - From FY-2011 to June 2015, OTF projects received significant funding from other nonprofit, government, and corporate partners. In response to inquiries from the GAO, OTF provided the following information regarding other funding sources for OTF-backed projects and labs:¹⁰⁶

OTF Project/Lab	OTF Funding ¹⁰⁷	Known Partner	Partner Amount
Open Whisper Systems/TextSecure	\$1,355,000.00	Knight Foundation	\$416,000.00
		Facebook/Whatsapp	Unknown amount
Open Technology Institute/Measurement	---	Knight Foundation	\$350,000.00
The Tor Project	\$2,582,244.00	Knight Foundation	\$320,000.00
		National Science Foundation	\$750,000.00

¹⁰² <https://guardianproject.info/2019/10/08/onions-on-apples-a-new-release-of-onion-browser-for-ios/>

¹⁰³ <https://openappstack.net/about.html>

¹⁰⁴ <https://www.opentech.fund/results/supported-projects/journalists-in-distress/>

¹⁰⁵ https://www.cjfe.org/journalists_in_distress_securing_your_digital_life

¹⁰⁶ H56114-0095-021924, H56114-0095-021925 E-mail from Libby Liu of RFA/OTF to BBG Inspections, re: GAO Q&A (June 25, 2015 16:56 EST).

¹⁰⁷ Based on data obtained from review of OTF Annual Reports for FY-2012 to FY-2015.

OTF Project/Lab	OTF Funding¹⁰⁷	Known Partner	Partner Amount
Guardian Project	\$486,700.00	The New Digital Age	\$100,000.00
		MacArthur Foundation	\$15,000.00
Aspiration Tech	\$1,276,956.00	The New Digital Age	\$100,000.00
University of Toronto/Citizen Lab	---	The New Digital Age	\$100,000.00
		MacArthur Foundation	\$1,000,000.00
		Canadian Government	Unknown amount
Open Technology Institute/Measurement Lab	---	The New Digital Age	\$100,000.00
Measurement Lab	---	Google	Unknown amount
Simply Secure	---	Dropbox	Unknown amounts
		Google	
Greatfire.org	\$114,000.00	Radio Netherlands Worldwide	Unknown amounts
		Hivos	
China Digital Times	---	MacArthur Foundation	Unknown amounts
		Hivos	
		Open Society Initiative	
LEAP	\$1,341,637.00	Hivos	Unknown amount

- We were unable to identify similar data for FY-2016.
- In FY-2017 and FY-2018, OTF projects received significant funding from other non-profit, government and corporate partners. In response to inquiries from USAGM, OTF provided the following information regarding other funding sources for OTF-backed projects, conferences, and labs:¹⁰⁸

¹⁰⁸ See H56114-0002-015910, H56114-0002-015911, E-mail from Libby Liu of RFA/OTF to Haroon Ullah, re: Fwd: OTF FY 2017 Projects Supported (June 27, 2018 22:24 EST) (e-mail on file with McGuireWoods LLP).

OTF Project/Lab/Conference	OTF Funding¹⁰⁹	Vendor	Listed Partners and Other Funding Sources (Amounts Not Provided)
DNS Privacy	\$306,000.00	Sinodun	RIPE NCC's 'Good of the Internet' Initiative
Internet Freedom Festival	\$250,000.00	IREX	DRL, Facebook, Twitter, Mozilla, Ford Foundation, Open Society Foundation, the Transparency Council of the Generalitat Valenciana (Municipal Government of Valencia)
Digital Security Fellowship (Formerly "Digital Integrity Fellowship")	\$238,200.00	Various (4 total fellows)	Case by case (partners not listed)
Iran Cyber Dialogue	\$ 41,754.00	ASL19	DRL NEA, Swedish International Development Cooperation Agency (SIDA)
Citizen Lab Summer Institute	\$ 92,158.00	Citizen Lab	MacArthur Foundation and Connaught Fund
OONI Gathering 2017	\$ 41,070.00 (?)	The Tor Project	Mozilla, MacArthur Foundation, Hewlett Foundation
Opennet Africa	\$ 65,300.00	CIPESA	Access Now, HIVOS, Ford Foundation, possibly Mozilla
Mekong ICT 2017	\$ 40,000.00	Thai Fund Foundations	Friedrich Naumann Foundation, UNESCO, Swedish Program for ICT in Developing Regions (SPIDER)
Localization Lab	\$687,272.00	Localization Lab Inc.	Service based revenue
STARTTLS Everywhere	\$200,000.00	EFF	Electronic Frontier Foundation
NoScript (CrossBrowser)	\$100,000.00	Giorgio Maone	Mozilla
Transifex (Localization Lab)	\$230,886.00	Transifex	In-Kind support by Transifex platform
Information Controls Fellowship	\$581,700.00	Various (10 total fellows)	Google, NSF, DHS S&T, Australian Government, Data61, SPAWAR Systems Center Pacific

¹⁰⁹ Based on data obtained from review of OTF Annual Reports for FY-2017 and FY-2018.

OTF Project/Lab/Conference	OTF Funding¹⁰⁹	Vendor	Listed Partners and Other Funding Sources (Amounts Not Provided)
Mailvelope	---	Mailvelope GmbH	Service based revenue, Internews
GlobaLeaks	\$109,167.00	Hermes Center for Transparency and Digital Human Rights	Transparency International, Free Press Unlimited
WeChatScope	\$122,000.00	The University of Hong Kong	Hong Kong University's Knowledge Exchange Fund and/or MIT's China Seed Grant
Tor Metrics	\$ 73,700.00	The Tor Project	Mozilla Foundation
OONI (2017)	\$333,240.00	The Tor Project	Mozilla Foundation, Media Democracy Fund, the Ford Foundation, the Democracy Council, the German Foreign Ministry
Rapid Response	\$473,336.00	Various	Case by case (partners not listed)
Global Voices Summit	\$ 54,500.00	Global Voices	Mozilla Foundation
Tor Node Distribution Latam	\$ 89,700.00	Derechos Digitales	Ford Foundation, Mozilla Foundation
Security for United4Iran	\$25,000.00	ASL 19	Yes (partners not listed)
IUCRC Research	\$ 50,000.00	University of S. Alabama	NSF, Private industry partners, Other USG funds
Tor Usability	\$ 16,250.00	TOR Project	Media and Democracy Fund
Adversary Lab	\$ 40,634.00	Operator Foundation	DRL
Usability Lab	\$250,000.00	Various including Simply Secure	Provision of some in-kind services by lab providers
Briar	\$116,400.00	Sublime Software	DRL, Swedish International Development Agency (SIDA)
BIND9 Qname Minimization	\$78,636.00	Internet System Consortium	Revenue from software support
Eclipsis.is (Engineering Lab)	\$158,372.00	Greenhost	Internal revenue
Freedom Tech Project	---	Clostra	NED

OTF Project/Lab/Conference	OTF Funding¹⁰⁹	Vendor	Listed Partners and Other Funding Sources (Amounts Not Provided)
Open Archive	\$300,000.00	Oliver & Cody	Knight Prototype Fund, Open Knowledge Prototype Fund, Guardian Project
Securing Domain Validation	\$300,000.00	Princeton University	Let's Encrypt
Arab Digital Rights Summit	\$ 40,035.00	SMEX	Yes (partners not listed)
Research Methods Workshop for Digital Rights Africa	\$ 9,171.00	CIPESA	DRL, Small Media Foundation
CGIProxy Improvements	\$ 69,900.00	Berkeley Institute for Free Speech Online	DRL, crowdfunding
Securing Mena Publishing	\$ 48,927.00	Hiber for Training and Tech	Internal revenue
OpenAppStack	\$267,991.00	Greenhost	Internal revenue, DRL
Tibetan Computer Emergency Readiness Team (tibcert)	\$244,050.00	Tibet Action Network	DRL
Citizen Lab Summer Institute (2018)	\$ 45,158.00	University of Toronto	MacArthur Foundation, Connaught Fund
Digital Security Support in Pakistan	\$125,938.00	Digital Rights Foundation	DRL
Forum on Internet Freedom in Africa	\$ 48,850.00	CIPESA	Mozilla Foundation, Open Society Foundations, Hivos, Ford Foundation, APC, Access Now, Swedish International Development Agency (SIDA), Small Media Foundation
Primavera Hacker Festival	\$ 20,000.00	Derechos Digitales	Anilla Cultural
Cyberwarfare in Kyrgystan Elections	\$ 28,600.00	Qurium Media Foundation	Digital Defenders Partnership

- In FY-2019, OTF provided funding to MASSBrowser in the amount of \$91,660 for “the development of a final release desktop version of MASSBrowser as well as an Android version.”¹¹⁰ MASSBrowser is a tool designed to circumvent Internet censorship through the help of normal Internet users with open access to the Internet who volunteer to help censored Internet users. OTF funded the project through the Internet Freedom Fund. MASSBrowser was developed by the Secure, Private Internet (SPIN) Research Group at

¹¹⁰ <https://www.opentech.fund/results/supported-projects/massbrowser>

the University of Massachusetts Amherst. The SPIN group has obtained several grants from other entities over the years, with OTF as one of its lowest funding grantors. From 2016-2021, SPIN will receive a total of \$5,780,000 in grants from the National Science Foundation. Additionally, it will receive \$600,000 from the Defense Advanced Research Projects Agency from 2019-2021.¹¹¹

- We were unable to identify similar data for FY-2020.

OTF Transparency:

- As noted above, our access to information has been limited by OTF's resistance to USAGM requests for information. USAGM and OTF are currently engaged in litigation that has placed the parties in an uncooperative posture. We were forced to work from publicly-available information and information already contained in the e-mail files and other records of USAGM and RFA custodians. This has been further complicated by the RFA's prior agreement to transfer Liu's e-mails to OTF without retaining a copy, as discussed above.
- Our review has identified other examples of OTF not working in a transparent or cooperative fashion. For example, our e-mail review has identified numerous exchanges involving Liu that demonstrate a particularly critical and antagonistic relationship with the OIF, including resistance to its oversight and to allocation of appropriated funds as between OTF and OIF.
- In addition, OTF has altered its public reporting on its projects and investments over time in a fashion providing less transparency into its activities. Prior to 2016, OTF provided detailed reporting on its sponsorship and attendance at conferences. Following a critical OIG report issued in June 2015, which called into question the extent and value of these activities, RFA stopped providing any such detail and instead reported these activities only as a single line item.
- Similarly, OTF's public reporting regarding the success of its project funding is not always transparent. As explained above, there are projects in which there has been no update from OTF regarding whether the project is live or whether all of the funds were used. Moreover, OTF's public reporting fails to provide critical information regarding a project's funding partners and the amounts a project receives from other nonprofit, government and corporate entities. For projects receiving other federal government funding, OTF's public reporting fails to disclose the agencies that provided funding as well as the amounts.

¹¹¹ <https://people.cs.umass.edu/~amir/Research.html>

III. OTF GRANT FUNDING

In FY-2020, USAGM awarded OTF a total of \$9,417,872.00 in grant funding.¹¹² Under the FY-2020 Grant Agreement, OTF is required to use grant funds “solely for planning and operating expenses related to advancing Internet Freedom overseas” and for “the purposes set forth in law for USAGM's Internet Freedom funding, including the annual appropriation Act[s].”¹¹³

OTF's FY-2020 grant funding originates from Section 7065 of the Consolidated Appropriations Act, 2019 (P.L. 116-6)¹¹⁴ and Section 7050 of the Further Consolidated Appropriations Act, 2020 (P.L. 116-94).¹¹⁵ Each of these appropriations statutes provide USAGM with varying amounts of funds to “promote Internet freedom globally” and may only be used for the following purposes:

- “for tools and techniques to securely develop and distribute USAGM digital content, facilitate audience access to such content on websites that are censored, coordinate the distribution of USAGM digital content to targeted regional audiences, and to promote and distribute such tools and techniques, including digital security techniques”;
- to coordinate “with programs funded by this Act under the heading ‘International Broadcasting Operations’”, and to incorporate such tools and techniques “into country broadcasting strategies, as appropriate”;
- “to provide Internet circumvention tools and techniques for audiences in countries that are strategic priorities for the USAGM and in a manner consistent with the USAGM Internet freedom strategy”; and
- “for the research and development of new tools or techniques” as well as for the evaluation of the “the risks and benefits of such new tools or techniques, and to establish “safeguards [that] minimize the use of such new tools or techniques for illicit purposes.”¹¹⁶

These appropriations statutes also require USAGM to prioritize programs “for countries whose governments restrict freedom of expression on the Internet, and that are important to the national interest of the United States.”¹¹⁷ Neither of the appropriations statutes require USAGM to award Internet Freedom funds to a particular USAGM grantee or Non Federal Entity.¹¹⁸

¹¹² H56114-0006-001839, Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund for Additional Amounts in FY 2020, FAIN: OT01-20-GO-0001, at 1 (dated November 20, 2019) (\$40,000.00); H56114-0001-036547, Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund, FAIN: OT01-20-GO-0001, at 1 (dated January 30, 2020) (\$3,688,320.00); H56114-0006-001848, Amendment No. 1 to Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund, FAIN: OT01-20-GO-0001, at 1 (dated April 2020) (\$5,649,552.00).

¹¹³ H56114-0001-036547, Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund, FAIN: OT01-20-GO-0001, at 3 (dated January 30, 2020).

¹¹⁴ <https://www.congress.gov/116/plaws/publ6/PLAW-116publ6.pdf>

¹¹⁵ <https://www.congress.gov/116/plaws/publ94/PLAW-116publ94.pdf>

¹¹⁶ *Id.* (the language is identical in both statutes).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

A. Failure to Comply with the Grant Agreement

Should USAGM determine that OTF's activities and programs do not comply with the requirements of the Grant Agreement there are numerous legal implications.¹¹⁹ As discussed in more detail below, both the Grant Agreement and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. § 200 *et. seq.*, ("Uniform Award Requirements"), set forth procedures and specific circumstances under which USAGM may withhold funds or terminate the federal award.

Under Article XIV of the Grant Agreement, USAGM may suspend or terminate OTF's grant funding under the following circumstances:

In the event that the Non-Federal Entity fails to comply with any material term of this Grant, then, upon the decision of the USAGM, USAGM shall have the right to suspend or terminate the Non-Federal Entity's use of the Grant Funds by providing written notice to the Non-Federal Entity. USAGM shall provide advance notice of suspension or termination, except in urgent or compelling circumstances, as determined by USAGM in its sole discretion, after which the Non Federal Entity will have ten (10) business days to bring itself in compliance with this Agreement.

In the event USAGM suspends or terminates the Non-Federal Entity's use of Grant Funds, the Non-Federal Entity shall forthwith return any portion of the Grant Funds in its possession or control to USAGM. Any such termination or suspension shall be without further obligation by USAGM or the United States.¹²⁰

Pursuant to Article VII of the Grant Agreement, OTF is also subject to the Uniform Award Requirements.¹²¹ These federal regulations provide further guidance should USAGM determine OTF failed to comply with the Grant Agreement. For example, under 2 C.F.R § 200.207, USAGM may impose upon OTF "additional specific award conditions as needed" to allow OTF to cure its deficiencies. These additional specific award conditions include:

- Requiring payments to be reimbursements, not advance grants;
- Withhold authorization to proceed to a "next phase" absent proof of performance;
- Demand more detailed financial reports;
- Demand additional project monitoring;
- Require grantee to get management or technical assistance; and/or
- Establish additional prior approvals.¹²²

Moreover, should USAGM determine that the issue cannot be remedied by imposing additional specific award conditions, under 2 C.F.R § 200.339, USAGM may "take one or more of the following actions, as appropriate":

- Temporarily withhold cash payments pending correction of the deficiency or more severe action;
- Disallow (deny cash or credit) all or part of the activity that is not in compliance;
- Wholly or partly suspend or terminate the Federal award;

¹¹⁹ Debarment will be discussed in a separate memorandum.

¹²⁰ H56114-0001-036547, Grant Agreement between the U.S. Agency for Global Media and Open Technology Fund, FAIN: OT01-20-GO-0001, at 15-16 (dated January 30, 2020).

¹²¹ *Id.* at 11.

¹²² 2 C.F.R § 200.208(b)(1)-(6) (<https://www.law.cornell.edu/cfr/text/2/200.208>).

- Initiate suspension or debarment;
- Withhold further Federal awards; and/or
- Take legal action¹²³

Should USAGM determine that OTF's activities do not comply with the requirements of the Grant Agreement, it may terminate the federal awards in accordance with Article XIV of the Grant Agreement and the Uniform Award Requirements.

B. USAGM is not required to award federal funds to OTF

The funds Congress appropriated to USAGM for Internet Freedom programs are not entity-specific and USAGM is under no legal obligation to provide further funding to OTF. Neither the Consolidated Appropriations Act, 2019, nor the Further Consolidated Appropriations Act, 2020, require USAGM to award federal funds to OTF. USAGM may also choose not to award OTF additional funds in future years should it receive appropriations from Congress for Internet Freedom efforts.¹²⁴

However, OTF may nevertheless receive federal funding in the future should Congress pass the FY-2021 National Defense Authorization Act ("NDAA"). Under the proposed FY-2021 NDAA, OTF would become a formal grantee entity of USAGM, such as Radio Free Asia.¹²⁵ The proposed FY-2021 NDAA provides OTF with \$20,000,000 for FY-2021 and \$25,000,000 for FY-2022.¹²⁶ Although the proposed FY-2021 NDAA would make OTF a formal grantee of USAGM, OTF would still nevertheless be subject to federal award requirements and additional oversight from USAGM.

Lastly, it is important to note that while USAGM is not obligated to continue funding OTF, the recent federal court litigation may impact USAGM's ability to withhold funds or terminate the current award. In its complaint, OTF asked the District Court to enjoin USAGM CEO Michael Pack and USAGM from "freezing their grant funds."¹²⁷ While the District Court denied OTF's motion,¹²⁸ the D.C. Circuit granted OTF's request for an injunction pending their appeal of the District Court's decision.¹²⁹ Should the D.C. Circuit overturn the District Court's decision, USAGM would be required to continue funding OTF pursuant to a court order.

¹²³ 2 C.F.R § 200.339(a)-(f) (<https://www.law.cornell.edu/cfr/text/2/200.339>).

¹²⁴ This assumes the language of future appropriations statutes will be similar to the Consolidated Appropriations Act, 2019, and the Further Consolidated Appropriations Act, 2020.

¹²⁵ S. 4049, 116th Cong. § 1210(d) (as passed by Senate, July 23, 2020) (<https://www.congress.gov/116/bills/s4049/BILLS-116s4049es.pdf>).

¹²⁶ *Id.*

¹²⁷ Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction at 21, *Open Technology Fund, et. al, v. Pack,*, Civil Action No. 20-1710 (BAH), 2020 U.S. Dist. LEXIS 116376 (D.D.C. July 2, 2020).

¹²⁸ *Open Technology Fund, et. al, v. Pack,* Civil Action No. 20-1710 (BAH), 2020 U.S. Dist. LEXIS 116376 (D.D.C. July 2, 2020).

¹²⁹ *Open Technology Fund, et. al, v. Pack,* No. 20-5195 (D.C. Cir. July 21, 2020).

IV. CONCLUSION

Despite OTF's resistance to providing information, our investigation was able to identify numerous concerns with how OTF has operated and indications it has not been performing consistent with USAGM's expectations or with its own stated goals for effectively advancing Internet Freedom. As explained in Part I above, the OIG identified a number of issues with OTF's performance in 2015 and recommended a number of measures to address the lack of oversight of OTF activities. These recommended measures were supported and amplified by BBG's then General Counsel, who endorsed to the Board taking significant remedial actions. The recommended measures included a comprehensive oversight program to monitor OTF's use of grant funds, adoption of specific guidelines for the use of grant funds and the involvement of USAGM employees in the selection of OTF projects. Despite these recommendations, the problems identified by the OIG appear to have persisted without adequate intervention by the Board or agency leadership.

In addition, our investigation has been materially and substantially hampered by the lack of cooperation from OTF. This lack of cooperation, including refusal to provide access to data and documents, when combined with problematic document destruction from Libby Liu, covered in the November 19, 2020 Record Destruction Workstream Memorandum, have prevented this investigation from developing comprehensive findings about OTF's overall performance.

TO: USAGM - Compliance Review File

FROM: John D. Adams
Alex J. Brackett
Milligan J. G. Goldsmith
Eric W. Mills

DATE: November 19, 2020

RE: Record Destruction Workstream – Summary as of November 19, 2020

The U.S. Agency for Global Media (“USAGM”) has retained McGuireWoods to conduct a series of compliance reviews focusing on potential instances of statutory, regulatory or policy violations by current and former officers, directors and employees of USAGM and its networks (including non-Federal entity grantees). The following memo summarizes the current status of one of the review workstreams. Work on this issue remains ongoing, and this interim summary is subject to revision and update.

Issue Presented:

Federal Records issues

- USAGM and its networks are subject to Federal statutes and regulations governing the handling and maintenance of certain types of records relating to their operations and their handling of grant funds.
- On September 23, 2020, USAGM collected 17 government-issued electronic devices from seven USAGM officers then on administrative leave in connection with alleged management failures and/or alleged misconduct. They have not had access to their Agency e-mail since their leave date of August 12, 2020.
 - The Agency has confirmed that their e-mail accounts were disabled upon their leave. The Agency noted that David Kligerman and Shawn Powers attempted to access their e-mail after their leave date but were not able to. Powers’ attempt was on September 18, 2020. Kligerman tried several times on August 27, and September 8, 9 and 18, 2020.
- Consilio reviewed the collected devices for potential indications of problematic file deletions, wiping or other efforts to remove or delete data. The only potentially problematic incident they identified was the following¹:
 - When Shawn Powers (Chief Strategy Officer) returned his Macbook Air laptop, it was wiped (to the extent that it did not even have an operating system or the ability to be booted up, and his iPad and iPhone were factory reset. We do not know when this occurred, but because the Agency had the laptop and devices by September 23, and Powers tried to access his e-mail on September 18, it would most likely have happened in the September 18-23

¹ Note, some custodians did not provide passcodes for their devices; the Agency intends to request them, but that remains in process. The custodians at issue are: Marie Lennon (Director, Office of Management Services), who had a Surface Pro placed in BitLocker recovery mode, with no BitLocker key provided; and Matt Walsh (Deputy Director of Operations), who had an iPad for which a passcode was not provided.

time frame (unless his effort to access his e-mail on September 18 was via a webmail or other non-device-specific interface).²

- Additionally, through the collection and review of USAGM and grantee custodian e-mails, including for the officers who went on leave, we have seen the use of personal e-mail accounts. In some cases, e-mails have been forwarded to personal e-mail accounts. The use of personal e-mail in this fashion is an issue that remains under review as our document review efforts continue.

Grantee records issues

- On September 30, 2020, USAGM legal counsel requested that Radio Free Asia (“RFA”) preserve and collect e-mails for several RFA and Open Technology Fund (“OTF”) employees, including former RFA and OTF President, Libby Liu.
 - The same day, RFA advised, via an e-mail from Param Ponnudurai, that Liu “had a standing instruction when she was RFA and OTF President that her RFA e-mails be forwarded to OTF without leaving a copy on RFA’s server. So no e-mails of Libby are on RFA’s server.”³
 - In response to a follow-up request for a copy of any written instructions Liu had provided regarding the handling of her e-mails, Ponnudurai advised via an October 2, 2020 e-mail that “[t]here was no written instruction from Libby. I’m told that she made a verbal request to David Baden, RFA’s ex-CTO, and he verbally conveyed the instruction to the Tech side and they implemented the measure.” This must have been before January 2, 2020, when he left RFA.⁴
 - In an interview with Ponnudurai and the General Counsel of RFA, Bernadette Burns, Burns said that the current systems administrator, Tham, has told her he believes Liu asked the former systems administrator, Chad Hurley, to remove the e-mails, not Baden. She does not know why Tham believes that. Regardless, Burns believes RFA did not keep copies of Liu’s e-mails that were transferred to OTF. Burns also asserted that from her perspective, RFA was not obligated to maintain such copies under the grant agreements, RFA policies or otherwise.⁵ Burns did indicate that RFA has a policy that requires return all RFA data before departure, but most such documentation is generally on hard drives.
 - Burns explained that Liu’s e-mails had been hacked at some point, and Liu was very “security conscious.” Burns believes Liu wanted her e-mails moved to OTF because Liu believed it had more secure servers.⁶
- We have since learned that RFA has not been able to locate the e-mail for up to seven employees who left RFA for OTF. Under a related transfer agreement, RFA was to retain a copy, but it has not located

² We have been told there is no way to determine when the devices were reset or the laptop wiped.

³ Agency Attorney Karen Mayo received a similar explanation when she requested that the e-mail for Liu be preserved for another matter.

⁴ See H56114-0001 (Baden’s Memorandum regarding his removal and meetings with Liu; notes his termination January 2, 2020).

⁵ Burns stated that RFA’s Finance and HR departments have a records management policy that does not involve e-mail retention, but there is no policy for the broadcasters. She stated that if she receives a directive to retain documents, then she ensures that is done. But generally, there is not enough space on the cloud and employees regularly are asked to clean up their inboxes. There is no separate policy for senior management, and Burns expressed a view that RFA senior management is not subject to any particular record retention requirements under any applicable law, policy or grant agreement term.

⁶ Burns did think Liu was subject to a legal hold starting around 2016 in connection with litigation filed in Texas by a man named Tu Nguyen. He sued RFA and named Liu, but Burns told us she was dismissed from the case.

one. The employees returned RFA documents following their transfer, using thumb drives, but the files included did not contain e-mails.⁷

Individuals Potentially Implicated:

- Libby Liu
- Other former RFA employees / responsible RFA IT staff
- Shawn Powers

Statutes and Regulations Potentially Implicated:

Related to Federal records issues

- 44 U.S.C. § 3301 & 36 C.F.R. § 1220.18 (definition of “records”), 36 C.F.R. § 1230.3 (definition of “unlawful or accidental destruction” also called “unauthorized destruction”)
- 36 C.F.R. § 1230.10 (responsibility of agency head to prevent destruction of records and take adequate measures to inform all employees of the law relating to unauthorized destruction of records and to implement and disseminate policies and procedures to ensure records are protected); 36 CFR § 1222.10 (requiring agencies to provide training on records management responsibilities)
- 36 C.F.R. § 1230.12 (penalties for unlawful or accidental destruction of records); 18 U.S.C. § 2701 (criminal statute for willfully and unlawfully destroying a federal record, or attempting to do so—fines and up to three years imprisonment)⁸; 36 C.F.R. § 1230.14 (prompt reporting requirement to National Archive and Records Administration (“NARA”) by agency of unlawful or accidental destruction)
- Various NARA bulletins, e.g., NARA Bulletin 2013-03 (Guidance for Agency Employees on the Management of Federal Records, including E-mail Accounts, and the Protection of Federal Records from Unauthorized Removal), NARA Bulletin 2015-02 (Guidance on Managing Electronic Messages)

Related to grantee records

- 2 C.F.R. § 200.333 (Retention requirements for records)
- 2 C.F.R. § 200.334 (Requests for transfer of records)
- 2 C.F.R. § 200.336 (Access to records)
- 2 C.F.R. § 200.338 (Remedies for noncompliance)
- OMB Guidance

⁷ Burns in her interview stated that two employees had left RFA for OTF, and that she received a thumb drive from Lauren Turner but that did not include any of her e-mails. Burns has been in touch with Turner’s supervisor and other supervisors to obtain e-mails and was told that they would provide hard drives, which Burns said does not satisfy her request. Burns said that she has not made a request to OTF to obtain copies of RFA e-mails.

⁸ Arguably, 18 U.S.C. § 641 (theft of government property) could apply to certain handling/mishandling of federal records.

Agency Policies/Procedures/Reports Potentially Implicated:

Related to Federal records issues

- USAGM E-mail Records Management Policy (effective 6/29/18)
- Other policies that were part of the Agency manual that alert employees generally to Federal Records Act considerations and the need to retain them, *e.g.*, BAM Communications and Records policies, at sections 503.1 (Definition of Records),⁹ 503.3 (Importance of Records),¹⁰ 504.4 (Introduction – Responsibilities – Ownership of Records)¹¹, 511.3(A) (Creating Records – Record Copies)¹², 512.6(G) (Electronic Records – Responsibilities)¹³, 512.9(B) (Electronic Records – Ensuring Records

⁹ 503.1 “Definition - As defined in the Federal Records Act (44 U.S.C. 3301), the term ‘records’ includes ‘all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained in them.’”

¹⁰ “503.3 Importance - The proper individual maintenance and management of records is essential to the effective operation of Broadcasting's programs. Records not only have administrative value, they contain legal evidence that must be preserved to protect the Government; and they also embody information necessary to protect legal, property, or other rights of private citizens and government employees, as well as historical or research value for administrators, scholars, or specialists in various fields.”

¹¹ “504.4 Ownership of Records - No Government employees, regardless of rank or position, can acquire private proprietary interest in records that they create or that are in their custody, or to which they have access by virtue of their position. All records are the property of the Government. They must be safeguarded against unauthorized access, loss, fire, theft, or other damage. [para. break] 18 U.S.C. 2071 provides for a fine of not more than \$2,000 or imprisonment for no more than three years, or both, for willful unauthorized concealing, removing, destroying, mutilating, and obliterating or carrying away Government records. Employees are responsible and must account for the records in their custody. Those files maintained by employees that pertain only to their personal affairs should be maintained apart from Agency records. [break] Information and working files accumulated by employees in connection with their assigned responsibilities are not considered personal files.”

¹² “511.3 Record Copies - The maintenance, use, and disposition of record copies are controlled by Federal law and any violation is a criminal act. The record copy is the official or record document so marked or recognized, complete with enclosures or related papers. When a document not generally identified as a record copy is used to support an action or decision, it becomes an integral part of the official record. If there is a question about the identification of the record copy, consult the Records Officer. A general guide to identifying the record copy of most commonly used materials follows: A. Correspondence - Letters, memorandums, serially numbered and unnumbered communications, such as telegrams, and office memorandums, etc. 1. Created Within Broadcasting - This category includes correspondence between offices (domestic and overseas). Since not all records are merged into a central records system, each organizational element is responsible for maintaining records covering its operations. Each organizational element must maintain its own set of record copies. The record copy may be the original communication, an official signed or initialed copy, or a reproduced copy designated as the record copy. Some specific examples are: a. Original incoming, letters, memorandums, telegrams, e-mail, fax messages....”

¹³ “512.6 Responsibilities ...G. Users are responsible for complying with operating procedures established by Computing Services and operating the system in such a manner as to protect the records from damage, destruction, or alteration.”

Retention)¹⁴, 516.4 (Personal Files/Official Records – Policy)¹⁵, and 516.6 (Personal Files/Official Records – Notification Requirement)^{16 17}

- USAGM Mobile Device Policy (effective July 12, 2013)
- Senior Agency Official for Records Management (“SAORM”) annual reports to NARA (each agency’s SAORM provides one).¹⁸ Chris Luer has been the USAGM SAORM from 2017 to present. Marie Lennon was the SAORM in 2016.

Grantee side

- Grant Agreement Between the U.S. Agency for Global Media and Radio Free Asia, FAIN: 1065-19-GO-0001 (executed October 23, 2018)
- Grant Between the U.S. Agency for Global Media and Radio Free Asia for Additional Amounts in FY 2020, FAIN: 1065-19-GO-00001 (executed November 8, 2019)

¹⁴ “512.9 Ensuring Records Retention...B. Some electronic mail systems automatically erase information after the recipient has read it, while others delete the information at specified time intervals. Therefore, personnel should take positive action at the time they receive electronic messages, to retain any records received in this manner in a medium which will satisfactorily store the record until its disposition date. Many electronic mail messages will not contain enough substance to be considered official records.” Note this last sentence is implicitly overridden by the Agency’s more recent E-mail Records Management Policy stating that e-mails are presumptively federal records. Also, this provision appears to be more directed to IT and RM personnel, versus individual employees.

¹⁵ “516.4 Removal of Official Records – [different title than TOC which says “Policy”] (1) Official records are the property of the Government, not of the employee who makes or receives them. Employees may not remove such records from Broadcasting’s custody. (2) Unauthorized removal of official records for personal use or for the use of others constitutes theft of Government property, punishable by fine and/or imprisonment under 18 U.S.C. 641. Criminal penalties are also provided under 18 U.S.C. 2071 for the unlawful removal or destruction of official records.”

¹⁶ “516.6 Notification Requirement Employees must promptly notify the Records Officer or the Office of Security of any actual or threatened removal of material in violation of the policies set forth in this section.”

¹⁷ Note that the records management policies and procedures in Broadcasting Administrative Manual (BAM) are currently being updated, per interviewees. In April 2019, State OIG in its Targeted Inspection of Government at USAGM recommended that the Agency update policies and procedures in its BAM. USAGM in response on May 13, 2019, said that it agrees and explained its plan for doing that and on August 26, 2019, said the recommendation was resolved, explaining what policies had been updated and the plan for updating others including those on records management. It said it expects to fully update the policies by end of fiscal year 2020. H56114-0030-005577 and -78.

¹⁸ See Q&A from USAGM’s FY2018 Report, below:

[NARA Question #6] Have you, as the SAORM, established or improved your agency procedures that ensure all incoming and outgoing senior officials receive briefings on their records management responsibilities including documenting their public service, use of personal e-mail, and other recordkeeping requirements? *Senior officials are the heads of departments and independent agencies; their deputies and assistants; the heads of program offices and staff offices including assistant secretaries, administrators, and commissioners; directors of offices, bureaus, or equivalent; principal regional officials; staff assistants to those aforementioned officials, such as special assistants, confidential assistants, and administrative assistants; and career Federal employees, political appointees, and officers of the Armed Forces serving in equivalent or comparable positions.

Response: Yes, not only are agency Senior Officials, but all employees receive information on records management responsibilities prior to onboarding and all employees must now clear the records manager when out-processing.

The Question in FY2019 was slightly different but the response from the Agency was the same: “Does your agency have procedures that include documentation to ensure records of outgoing senior officials are properly captured and/or processed and not improperly removed, altered, or deleted including electronic records and e-mail?” (Question #7 for this year).

Investigative Activities:

Document Review:

- Still pending collection by USAGM:
 - *For the Federal records issue:*
 - Any additional applicable policies on government-issued laptops and/or devices, including what if any records management information is communicated to employees at onboarding or upon being placed on administrative leave.
 - Policies and procedures regarding employees going on administrative leave and/or offboarding procedures.
 - Powers' acknowledgement on turning in government-issued devices.
 - *For the grantee records issue:*
 - The Grantee Handbook
 - David Baden's e-mail.
- Still under review by McGuireWoods:
 - Targeted search and review of Powers' custodial e-mail or others corresponding with him leading up to his administrative leave.
 - Targeted search and review of available custodial e-mail for any indication of Liu's practice of shifting e-mails from RFA's server and/or her documents being placed on legal hold.
 - Targeted search and review of e-mails relating to officers who went on administrative leave in August 2019.
 - General review of e-mails for other workstreams that touch on these issues.
- Reviewed to date:
 - Potentially relevant Agency policies, procedures and information on document handling focused on instructions to employees identified by Agency.
 - Agency SOP on Grant Monitoring.
 - RFA Grant Agreements.
 - Relevant administrative leave letters.
 - Potentially relevant USAGM House Announcements.
 - The BBG Administrative Manual (a.k.a., the Manual of Operations and Administration) in effect October 2017 forward (to the extent sections were identified to us by the Agency; the Agency provided those and we found the October 2017 Manual through at least May 2018 in custodial e-mail).

Interviews:

- *For the Federal records topic:*
 - Chris Luer, current Agency SAORM
 - Thom Layou, current Budget Director and Acting CFO
 - Stephen McGinley, Agency Records Manager
 - Massimo Gigli, USAGM IT
- *For the grantee records retention topic:*
 - Karen Mayo, Assistant General Counsel of Employment Litigation (also Associate General Counsel of Employment Litigation and the Acting Deputy General Counsel)
 - Bernadette Burns, General Counsel of RFA
 - Parameswaran (“Param”) Ponnudurai, Acting President of RFA

Other Sources of Information:

- Guidance from State OIG’s May 2016 report “Evaluation of E-mail Records Management and Cybersecurity Requirements” on Secretary Clinton’s e-mails and records issues at State, which states, for example: “At a minimum, Secretary Clinton should have surrendered all e-mails dealing with Department business before leaving government service and, because she did not do so, she did not comply with the Department’s policies that were implemented in accordance with the Federal Records Act. NARA agrees with the foregoing assessment but told OIG that Secretary Clinton’s production of 55,000 pages of e-mails mitigated her failure to properly preserve e-mails that qualified as Federal records during her tenure and to surrender such records upon her departure. OIG concurs with NARA but also notes that Secretary Clinton’s production was incomplete.”

Interim Findings:

1. Federal Records Issue

Legal Obligations:

- USAGM officials are subject to federal records laws and regulations. These include the Federal Records Act and NARA regulations. NARA also issues bulletins and other materials that are guidance.¹⁹
- E-mails can be federal records created or received in the course of agency business. So can chat/instant messaging, text messaging, voice-mail messaging, and social media or mobile device applications. Federal records are made or received by the Agency in connection with the transaction of public business and appropriate for preservation or preserved as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the information value of the data in them. It also includes materials the Agency judges should be maintained because of the evidence of Agency activities or information they contain.

¹⁹ For a helpful overview of the law and regulations through May 2016, see the State OIG’s “Evaluation of E-mail Records Management and Cybersecurity Requirements” report in response to the issues around Secretary Clinton’s e-mails. Much of the overview is still relevant. The most relevant laws and regulations are cited earlier in this workstream document.

- Agencies are required to prevent destruction of Federal records and take adequate measures to inform all employees of the law relating to unauthorized destruction of records. They are required to implement and disseminate policies and procedures to ensure records are protected, and provide training on records management responsibilities
- The willful and unlawful destruction, concealment, removal or mutilation of government records (or attempts to do so) may be punished by imprisonment for three years, a \$2,000 fine or both. Per the Justice Manual governing federal prosecutors, this is a specific intent crime and some courts have required that the defendant know that the documents involved were public records. *See* Criminal Resource Manual 1663.
- USAGM must promptly report any actual, impending, or threatened unlawful or accidental removal, defacing, alteration, or destruction of records, to NARA—a requirement that may be triggered in this case.

The absence of data on Powers' government-issued mobile devices and laptop

- At the time his government-issued mobile devices and laptop were collected, Powers was on administrative leave from the Agency pending potential disciplinary proceedings, but was still employed. He was told in his administrative leave letter that he was to surrender immediately all government property, and that failing to do so would result in disciplinary action.
- He was in a senior management position within the Agency. Given that, his e-mail and any locally saved files, likely contained Federal records. Even though the Agency retained on its server all of his e-mail from his tenure at the Agency, Powers did not necessarily know that. Also, he could have had documents or information saved locally to his mobile devices and laptop that are Federal records and not on the server.
- That Powers' devices and laptop have been re-set or wiped means that he may have destroyed Federal records. The records that would have been destroyed would have been *non-e-mail* documents, since e-mail is still on the Agency server. We cannot confirm whether federal records were destroyed because of the nature by which Powers reset or wiped his devices. It is possible we could make some further determination if witnesses are identified who could speak to Powers' habits in working on or saving documents locally, use of texts to conduct Agency business, etc.
 - Any deletion of Agency records saved on local drives/spaces arguably violated general Agency policies that, though in the process of being updated, explain that federal records must be preserved and can be e-mail.²⁰ The version of the policies we received from the Agency for analysis were current as of October 2020.
- Powers' deletion of e-mail did not result in actual records destruction because all of his e-mail is still on the Agency server. Even so, if Powers intentionally reset or wiped his equipment, it is arguably still a violation of policy and law because he attempted to destroy it.

²⁰ Note as well, from the May 2016 OIG Report cited *supra*: “Although e-mails were not explicitly mentioned in the Federal Records Act or [that Agency’s manual] until the mid-1990s, the law has stated since 1943 that a document can constitute a record ‘regardless of physical form or characteristics’. . . . [Also, s]ince 1990, the regulations issued by NARA have explained that the medium of the record may be ‘paper, film, disk, or other physical type or form’ and that the method of recording may be ‘manual, mechanical, photographic, electronic, or any other combination of these or other technologies.’ These regulations also have stated that a record can be made ‘by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved.’” P.4 (Footnote omitted) “In 2014, Congress amended the Federal Records Act explicitly to define Federal records to include ‘information created, manipulated, communicated, or stored in digital or electronic form.’” P.6.

- Any intentional e-mail deletion would violate the Agency's E-mail Records Management Policy, which states e-mail messages with Agency accounts are presumed to be federal records and employees are to preserve them if federal records and to ask questions if not sure. It also states that communications regarding agency business are prohibited if not on Agency e-mail. Employees are permitted to delete only non-record e-mail which is defined narrowly (non-business related, personal, internal "broadcasted" messages, external advertisement or marketing messages). The Policy, effective June 29, 2018, was distributed as a House Announcement July 9, 2018.
- The wiping/resetting could arguably violate the Agency's Mobile Device Policy, in effect since July 12, 2013, to the extent Powers violated Usage Guidelines requiring that mobile devices "lost, stolen, or damaged" be reported immediately to the Enterprise Telecommunications Division. Section (d)(12)(v). Per the Agency, employees who receive government-issued devices must complete device registration using the Microsoft Company Portal application, which includes required review and approval of this policy.
- In the context of the pending administrative proceedings against these individuals, Powers' action could amount to spoliation of evidence and is indicative of concern that the devices may contain incriminating information, especially if we can confirm that the destruction likely came in the time period of September 18-23, 2020.
- Powers may argue the Agency failed in its obligations to sufficiently notify its employees of their obligations under applicable law and policies. To date, we have not seen evidence of significant training on Records Management and only limited guidance. However, given the seniority of his position and the nature of his device wiping and resetting, Powers' arguing lack of awareness and lack of intent to obscure Agency access to potentially relevant information would have limited credibility.
- Also, the Agency reports to NARA on records management cited earlier state for FY2018 and FY2019 the following: "[N]ot only are agency Senior Officials, but all employees receive information on records management responsibilities prior to onboarding and all employees must now clear the records manager when out-processing[.]"

Agency reports to NARA

- The Agency could elect to make a report to NARA at this point out of an abundance of caution, but would only be reporting the potential or apparent destruction of federal records, because we are not yet in a position to quantify what if anything was actually destroyed.

Forwarding of Agency e-mail to personal accounts

- The Agency's E-mail Records Management Policy, effective June 29, 2018, prohibits employees from using non-Agency e-mail accounts for electronic communications regarding Agency business, except in narrow circumstances that when applicable require that the e-mail make it back to the Agency via forwarding, printing, carbon-copying, etc. The Policy was distributed as a House Announcement July 9, 2018.
- The Agency Mobile Device Policy, effective July 12, 2013, also limits the personal use of Agency devices to that which doesn't interfere with official business, does not create additional expense, and does not create the appearance of perception of inappropriate or unlawful use, noting the device is intended for official use. It also strictly prohibits using Agency mobile devices for personal, commercial or business activities not related to official duties. *See* Policy Section 15(iii), (v), (vi).
- Conducting Agency business via personal e-mail accounts could also be a violation of federal records laws and regulations.

- We are still reviewing documents to confirm who may have violated these policies and whether the officers who went on administrative leave in August 2020 in particular, may have unusual forwarding activity.
- Note that we have seen examples of former USAGM General Counsel David Kligerman forwarding e-mails that were in his personal e-mail account back to his USAGM account, noting he was doing it to place it into the Federal record. *See, e.g.*, H56114-0096-0134873 (Sept. 2019), H56114-0075-0025404, H56114-0096-0052852 (noting as well that he asked Lansing to forward the personal e-mail exchange back to the agency for Federal records), H56114-0096-0052854 (copying Tran and noting he was sending the e-mail back for the Federal record), and H56114-0096-0120651.

2. Grantee Files Retention Issue

Legal Obligations:

- Though a non-Federal entity in receipt of grant funds, such as RFA or OTF, is not subject to the Federal records laws governing agency officials described above, the grantees must at a minimum maintain records for three years post-award if they are “pertinent to a Federal award.” *See* 2 CFR 200.333.²¹ Financial records, supporting documents, and statistical records are examples of such records, but the requirement covers “all other non-Federal entity records pertinent to a Federal award.” *Id.*
 - Per its Standard Operating Procedures for Monitoring Grants, applicable to grants starting in FY2019, the “grant files” USAGM retains includes performance progress reports, official correspondence and memoranda, requests for payment and payment vouchers, among other types of documents. (H56114-0006-003748 & -51, Section V.C.5.a). Though the SOP applies to *USAGM’s* document retention, not RFA’s, it is illustrative of the types of “grant files” it retains. USAGM retains the records in accordance with various Schedules (*see* subsection b of V.C.5).
- According to the Grant Agreement with RFA for 2019 (the relevant provisions of which remained in effect in 2020), the Agency and RFA agreed that they are subject to various laws and regulations, including 2 CFR § 200. (Article VII)²² Further, the Agreement required the reporting to USAGM of unauthorized removal of Non-Federal Entity data, within 24 hours. (Article XI)
- If any litigation, claim, or audit is started before the three-year retention period of expiration, the records must be retained “until litigation, claims, or audit findings involving the records have been resolved and final action taken.” 2 C.F.R. § 200.333(a)²³
- USAGM must request the transfer of a grantee’s documents if it determines they have long-term retention value, though it can make arrangements for the non-Federal entity to retain records continuously needed for joint use (2 C.F.R. § 200.334). USAGM also “must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts,” including the right to interview non-Federal entity personnel relating to them (2 C.F.R. § 200.336(a)). That access is not limited to the required retention period but lasts as long as the records are retained. (2 C.F.R. § 336(d)). When records

²¹ The time period is “from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or passthrough entity in the case of a subrecipient.”

²² Note, NARA confirmed to Chris Luer that the grantee’s files would not be Federal records though. Their retention provisions come from OMB regulations.

²³ Note, it’s not clear this exception is relevant if the agency agreed to retain the grant files unless the records of the grantee are independently subject to a litigation hold.

are transferred to or maintained by USAGM, the three-year retention period does not apply to the non-Federal entity. (2 C.F.R. § 22.336(d))

- Failure to comply gives USAGM the right to, among other things, withhold further grant payments or cancel the grants altogether. *See* 2 C.F.R. § 200.338.

Liu E-mail Handling

- The OTF was created in 2012. Until September 2019, it operated as a sub-entity housed within RFA, but with its own independent purpose, grant sub-awards, personnel and operational infrastructure. OTF became a stand-alone grantee on September 2019.
- Liu served as the President of RFA from 2012 until November 2019, when she was removed from her position at RFA and became the first CEO of the newly stand-alone OTF. She was the functional head of OTF from its creation until her departure from it.
- Liu resigned as OTF CEO in June 2020.
- RFA and OTF were not coextensive with one another, in purpose or operation. This includes not sharing IT resources or servers.
- By directing RFA's CTO (or systems administrator) to have all of her RFA e-mails sent to OTF and removed from RFA's servers, Liu may have prevented RFA from being able to carry out its regulatory obligation to properly preserve and maintain grant records (*e.g.*, if the e-mail contained documents or information that could qualify as those that are "pertinent to a Federal award"). In fact, for other employees departing RFA to OTF, an agreement was in place to ensure RFA retained a copy of their e-mails.
- RFA not retaining Liu's e-mail, if a violation of the regulation, would also be a violation of the Grant Agreement with the Agency, whereby the parties to the Agreement agreed that the Parties were subject to various laws and regulations, including 2 C.F.R. § 200. (Article VII) Further, the Agreement required the reporting of unauthorized removal of Non-Federal Entity data, within 24 hours, to USAGM. (Article XI)²⁴
- To the extent Liu's e-mails may currently exist on OTF's servers, they are not currently available to USAGM. OTF is currently refusing to cooperate with requests for reasonable access to records, despite its obligation under its grant agreements to do so.
- By reputation, Liu did not welcome outside review or scrutiny of RFA or OTF, particularly in OTF's use of grant funds. Although we cannot ascribe any particular intent to her direction to have her e-mails transferred to OTF with any copies removed from RFA's servers, her seeking to place them more tightly under OTF control and further from the reach of RFA or USAGM is consistent with her reputation for limited transparency.

²⁴ Thom Layou confirmed that the Grant Agreement would subsume all of the Agency's requirements for the grantee's records management.

Conclusion

Powers' wiping/resetting of his mobile devices and laptop, and Liu's and RFA's mishandling of Liu's e-mail, have had a direct impact on our investigative activities for USAGM. For example, several of our current workstreams relate to RFA and OTF activities while under Liu's management and oversight. Because we are unable to examine Liu's e-mail records, we have been slowed and may be prevented in reaching conclusions and resolving concerns relating to matters such as:

- The validity and appropriateness of certain grant awards made by OTF over time;
- Whether and to what extent potential conflicts of interest relating to issuance of certain grant awards by OTF were considered, disclosed and resolved;
- General compliance with USAGM, RFA and OTF grant agreements and policies and procedures; and
- General compliance with applicable laws, rules and regulations.

It is avoidance of these types of investigative hindrances for which the record retention requirements were designed.

January 14, 2021

The Honorable Diana Shaw
Deputy Inspector General
Office of Inspector General
U.S. Department of State
SA-39, 1700 North Moore St.
Arlington, VA 22209

Dear Honorable Shaw:

On June 4, 2020, I became the first ever U.S. Senate-confirmed Chief Executive Officer of the U.S. Agency for Global Media (USAGM)—the independent federal entity responsible for managing and overseeing U.S. civilian international broadcasting. Already, in this early stage of my three-year term, I have become aware of a number of exceptionally serious issues at USAGM and its components, which I have outlined below under four categories: 1) security; 2) Open Technology Fund (OTF); 3) spending, and; 4) J-1 visas and hiring foreign nationals. These issues are also delineated in Agency Statements, which are both attached and publically available at [USAGM.gov](https://www.usagm.gov).

Today, I am formally requesting that the Office of Inspector General (OIG) undertake comprehensive investigations of these issues. OIG is best positioned to perform this vital task of government oversight on behalf of the American people, not least because it possesses unique authorities, including the power to subpoena individuals and documents. This referral draws upon findings from not only internal USAGM investigations, but also a series of independent investigations performed by McGuireWoods LLP into pertinent issues and individuals, namely USAGM personnel placed on administrative leave, and later, on investigative leave. Please see the attached files to access McGuireWoods LLP's independent investigations.

For the sake of safeguarding both the national interest and trust in our public institutions, I believe it is crucial that OIG elicit transparency by continuing to shine a light upon USAGM and its components.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael Pack". The signature is written in a cursive, flowing style.

Michael Pack
Chief Executive Officer
U.S. Agency for Global Media

1) Security

- Previous USAGM senior management had repeatedly failed to adhere to national security protocols and essential federal government personnel security practices for at least a decade.
- Previous USAGM senior management left largely unaddressed myriad deep-seated and persistent security problems identified in multiple assessments conducted by both the U.S. Office of Personnel Management (OPM) and the Office of the Director of National Intelligence (ODNI) between 2010 and 2020.
- The aforementioned assessments revealed that, in June 2020, at least 1,500 employees at USAGM – around 40 percent of the agency’s entire workforce – had been improperly vetted, including dozens of individuals given security clearances at the confidential level or above and/or access to secure federal government systems and facilities despite having invalid background investigations, adjudicative actions, and government access cards.
- Previous USAGM officials had cleared the more than 1,500 employees even though the agency’s delegated authority to conduct investigations lapsed back in 2012—due to what was already a list of numerous and egregious security violations and deficiencies.
- This delegated authority was never reinstated and USAGM management failed to take decisive action to resolve this issue during the entire ten-year period of OPM and ODNI assessments, despite the fact that the issue was repeatedly brought to its attention by career USAGM security professionals.
- In the face of all this, USAGM, under previous senior management continued to issue invalid access, security clearances, and suitability determinations. The agency was taking fingerprints, but neglecting to submit them to the appropriate authorities—or, in other instances, failing to take fingerprints, altogether. It was accepting aliases and fake social security numbers. It was not requiring the disclosure of foreign travel and foreign contacts. And on many occasions, USAGM was hiring individuals who left entire fields of background-check forms blank. Even the number of employees with secret and top-secret clearances was unknown.

2) Open Technology Fund

- New USAGM senior management soon discovered numerous, alarming preexisting and ongoing instances of mismanagement and security and personnel violations.
- The former Broadcasting Board of Governors (BBG) and Libby Liu, OTF’s Executive Director – and the former President of Radio Free Asia (RFA) – had broken off OTF from RFA in September 2019. Taking the entire annual appropriation of U.S.-taxpayer funding, Ms. Liu incorporated OTF under her own name as an independent non-profit in the District of Columbia.

- OTF then moved out of RFA and spent a significant amount of grant money to lease office space in the high-rent district of the capital’s “K Street corridor.” It proceeded to spend over \$2 million dollars to inflate staff salaries and benefits and host a lavish overseas conference. Further, as a separate entity, OTF immediately became a duplicative level of bureaucracy. It provided grants to civil-society organizations and causes that were not only already funded by other parts of the federal government, but unrelated to internet freedom.
- USAGM – again, OTF’s singular funding source – requested basic information from OTF about the way that it was spending millions of dollars generously provided by the American taxpayer. It repeatedly refused to provide this information in direct violation of its most elementary contractual obligations.
- To this day, USAGM and the rest of the federal government know little about OTF’s use of U.S.-taxpayer money. As recently as 2020, OTF was apparently paying foreign nationals as “technology fellows” up to \$65,000 a year, and a number of their identities remain unknown.
- USAGM further received a referral from OIG for the U.S. Department of State and USAGM concerning conflicts of interest at OTF. When the BBG and Ms. Liu broke off OTF as an independent non-profit in September 2019, they did so without adequate authorization from Congress. This created a conflict of interest. OTF already had a history of conflicts of interest, first documented in the 2015 OIG audit of RFA expenditures.
- In 2020, OTF materially breached its grant agreement by refusing to provide reasonably-requested information necessary to conduct proper agency oversight. Perhaps most importantly, in direct violation of its grant agreement, OTF used grant funds for projects that had nothing to do with internet freedom, exceeding the authorized purposes of the Congressional appropriation for internet freedom programs. Further dealings with OTF as well as its principals and corporate officers were deemed to present a risk to the federal government.

3) Spending

- USAGM’s human relations office and contracting processes, in particular, were in disarray. They were simply unable to provide fundamental information about the relatively-small federal agency, such as the total number of people employed by USAGM.
- While it was known that a significant percentage of USAGM personnel were employed as Personal Services Contractors (PSC), the agency was unable to actually provide the work agreements, making it virtually impossible to determine, for instance, the number, location, and duties of contractors—many of whom are foreign nationals. Further, chains

of command were broken and jumbled throughout USAGM, leaving PSCs and Full-time Equivalent (FTE) employees alike unsure of their own reporting structures.

- Reviews conducted by both the U.S. Government Accountability Office (GAO) and OIG, and additional investigations of agency operations, revealed a striking amount of questionable activity. Frequent “emergencies” were used to justify the ramming through of some contracts without normal, regulatory-required reviews and timelines. Other contracts were being forced through to cover disparate items, including some that were partisan and involved the hiring of friends and companies owned by personal acquaintances.
- When reviewing the financial environment, USAGM’s senior management uncovered issues that further necessitated a freeze on new hiring. It learned that previous agency senior management had been repeatedly violating national security protocols and essential federal government personnel security practices for at least a decade. The myriad problems impacting the agency were identified in the multiple assessments conducted by OPM and ODNI between 2010 and 2020.

4) J-1 visas and hiring foreign nationals

- When reviewing budgetary operations, new USAGM senior management learned that the agency was relying heavily upon the U.S. Department of State’s J-1 visa program to fulfill what were considered to be journalistic and technical needs that could not be first met by U.S. citizens. This was deemed to be an improper use of J-1 visas, for USAGM is required to follow Presidential Executive Order 13788 on Buy American and Hire American.
- USAGM’s new senior management was also concerned to discover that, in violation of many federal government security protocols and personnel practices, the agency was rubber stamping J-1 visa applications and renewal requests—that is processing them without any semblance of a systematic procedural review.
- Upon request, the agency was entirely unable to determine the number of foreign nationals it was employing through the J-1 visa program, let alone supply vital biographical details of those individuals. Previous USAGM senior management and the BBG had not disclosed this issue.
- The use of J-1 visas was wrapped up in the severe security violations and deficiencies left unaddressed by previous USAGM senior management that were identified in the multiple assessments conducted by OPM and ODNI between 2010 and 2020.



Returning American Broadcasting to its Mission

Observers of U.S. civilian international broadcasting have long recognized that our system for sharing America's story, principles, and values with the world is broken. Over the past decade, the five networks managed and overseen by the U.S. Agency for Global Media (USAGM) have been riddled with mismanagement and scandal and, in turn, have failed to fulfill this vital mission. But with Michael Pack at the helm – USAGM's first ever Senate-confirmed CEO – American broadcasting has taken the steps needed in order to, once again, advance the national interest by combatting the propaganda of our adversaries and by shining the light of truth and freedom on repressive regimes.

Security Issues

Past

When CEO Pack started in June 2020, at least 1,500 then-current employees (around 40 percent of USAGM) had been improperly vetted, including dozens of individuals with top security clearances.

Multiple security assessments conducted between 2010 and 2020 by the U.S. Office of Personnel Management (OPM) and the Office of the Director of National Intelligence (ODNI) revealed violations that were left unaddressed.

The U.S. government took unprecedented actions against USAGM, revoking its authority to conduct investigations and to adjudicate security clearances.

Present

Chairmen and Ranking Members of USAGM's Congressional committees are informed of security violations and implications.

OPM and ODNI's findings are addressed and systems are implemented to prevent security violations.

Future

USAGM will comply with laws and guidance of OPM, ODNI, and other federal entities to protect U.S. national security and agency journalists at home and abroad.

[Read more](#)

Internet Freedom

Past

USAGM diverted annual Congressional funding for internet freedom exclusively to "open-source" technologies and effectively closed the agency's own Office of Internet Freedom.

A former president of Radio Free Asia spun off the "Open Technology Fund" (OTF) from the network without adequate authorization from Congress, incorporated the entity as a non-

profit under her own name, and took the U.S. taxpayer funds.

OTF refused to provide basic information about the way it was spending millions of U.S. taxpayer dollars in violation of its most elementary contractual obligations as a grantee, solely funded by USAGM.

Investigations into OTF revealed lack of impact, conflicts of interest, noncompliance of contractual obligations, funding of organizations unrelated to internet freedom, and lavish spending on conferences, salaries, and office space.

Present

USAGM reopens the agency's Office of Internet Freedom, reinstates a transparent and competitive grant process, and funds a range of firewall-circumvention technologies.

USAGM begins debarment proceedings against OTF.

Future

USAGM will continue to use its impactful and transparent Office of Internet Freedom.

USAGM will urge Congress to significantly increase funding to establish a government-wide firewall-circumvention campaign.

[Read more](#)

Journalistic Independence

Past

A new "firewall rule" was created hours before CEO Pack's confirmation, which would have restricted the agency head's ability to address violations involving journalistic standards and principles, security, and personnel.

Present

The rule is rescinded.

Managerial and general editorial oversight abilities are

restored to the CEO position to fulfill the agency's legal mandate.

Networks operate with greater “professional independence and integrity.”

Future

CEO will intervene in the newsroom only when violations of the agency's standards and principles – and contraventions of U.S. foreign policy – occur.

CEO and USAGM will remain accountable to Congress and the American people.

[Read more](#)

Spending Review

Past

Human Resources did not know the number of people employed by USAGM, nor the number, location, and duties of contractors—many of whom were foreign nationals.

Numerous contracts were partisan and involved the hiring of friends and companies owned by personal acquaintances.

Present

Temporary spending and hiring freeze is instituted to allow for review of USAGM's financial environment.

Case-by-case reviews of contract renewals, new bids, and personnel actions are conducted.

New procedures are implemented to comply with conflict-of-interest and regulatory-acquisition requirements.

Future

USAGM will enforce revised contracting and grant-making processes and comply with all statutory, regulatory, and policy requirements of federal entities.

[Read more](#)

J-1 Visas and Hiring Foreign Nationals

Past

J-1 “cultural exchange” visas were improperly issued to employ foreign journalists.

Presidential Executive Order 13788 to Buy American and Hire American was not followed.

Ten years of “rubber-stamping” visa requests and renewals was in violation of government security protocols.

Present

Visa renewals are halted pending security assessments.

Initiatives are put in place to prioritize employment for American citizens.

Future

USAGM will give greater consideration to the I-1 and H-2B visa programs along with the agency's own visa program.

[Read more](#)

Consolidation: A Bold New Vision

At CEO Michael Pack's direction, USAGM and other federal entities have started analyzing the prospect of consolidation: the creation of a single network called “Voice of America,” since that is the most universally-recognized name among the five networks.

The new VOA would be divided into regions around the world rather than into separate networks; however, it would continue to use all current brands, e.g., RFA for some broadcasting into China. This new entity would be built around the surrogates in the parts of the world in which they currently operate, e.g., RL would become the VOA Russia Service, incorporating VOA Russian.

The new VOA would have regional language services, but just one English-language newsroom and one consolidated back-office. The elimination of five separate human resources, finance, and communications offices – as well as duplicative language services like today's VOA Russian and RFE/RL Russian – could potentially save American taxpayers more than \$170 million per year.

Additionally, consolidation would make the agency more manageable, more accountable to Congress and more easily held to the high journalistic standards outlined in the [VOA Charter](#) and the broadcasting [Standards & Principles](#).

Finally, while the U.S. Department of State, the National Security Council, and other federal entities would still have no control over how journalists report the news, the new VOA would be more responsive to changes in U.S. foreign policy.

USAGM is conducting a detailed assessment, including legal, budgetary, and logistical analyses, to gauge the viability of bringing together the federal networks and grantees. Then, it will be up to Congress, the White House and the broadcasting stakeholders to debate how this plan may best advance U.S. foreign policy – and America's national interest writ large – in the decades ahead.

[Read more](#)