

(c) *Nature of evaluation.* (1) The Board of Examiners' advisory qualifications evaluation of FSO applicants (i) will be based on a review of all pertinent information relating to the applicant's record of employment in the Foreign Service and to subsequent experience, as well, and (ii) will take into consideration among other factors, the rank of the applicant's contemporaries in the Service in recommending the class in which the applicant will be reappointed under section 308 of the Foreign Service Act of 1980.

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

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

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

of reappointment will not be considered for reappointment again.

§ 501.9 Interchange of FSOs between USIA and other Foreign Affairs Agencies.

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

(a) *Applications.* Applications for interchange appointments should be sent to the Board of Examiners for the Foreign Service, Department of State, Washington, DC 20520.

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

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

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

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

PART 502—WORLD-WIDE FREE FLOW OF AUDIO-VISUAL MATERIALS

Sec.

502.1 Purpose.

502.2 Definitions.

502.3 Certification and authentication criteria.

502.4 Certification procedures—Exports.

502.5 Authentication procedures—Imports.

502.6 Consultation with subject matter specialists.

United States Information Agency

§ 502.2

502.7 Review and appeals procedures.

502.8 Coordination with U.S. Customs Service.

502.9 General information.

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 2051, 2052; 22 U.S.C. 1431 *et seq.*; Public Law 101-138; E.O. 11311, 31 FR 13413, 3 CFR 1966-1900 comp., page 593.

SOURCE: 59 FR 18965, Apr. 21, 1994, unless otherwise noted.

§ 502.1 Purpose.

The United States Information Agency administers the "Beirut Agreement of 1948", a multinational treaty formally known as the Agreement for Facilitating the International Circulation of Visual and Auditory Material of an Educational, Scientific and Cultural Character. This Agreement facilitates the free flow of educational, scientific and cultural audio-visual materials between nations by providing favorable import treatment through the elimination or reduction of import duties, licenses, taxes, or restrictions. The United States and other participating governments facilitate this favorable import treatment through the issuance or authentication of a certificate that the audio-visual material for which favorable treatment is sought conforms with criteria set forth in the Agreement.

§ 502.2 Definitions.

Agency—means the United States Information Agency.

Applicant— means: (1) The United States holder of the "basic rights" in the material submitted for export certification; or (2) the holder of a foreign certificate seeking import authentication.

Application form—means the Application for Certificate of International Educational Character (Form IAP-17) which is required for requesting Agency certification of United States produced audio-visual materials under the provisions of the Beirut Agreement.

Attestation Officer—means the Chief Attestation Officer of the United States and any member of his or her staff with authority to issue Certificates or Importation Documents.

Audio-visual materials—means: (1) Films, filmstrips and microfilm in exposed and developed negative form, or

in positive form, *viz.*, masters or prints, teletranscriptions, kinescopes, videotape; (2) electronic sound recordings and sound/picture recordings of all types and forms or pressings and transfers therefrom; (3) slides and transparencies; moving and static models, wallcharts, globes, maps and posters.

Authentication—means the process through which an applicant obtains a United States Importation Document for Audio-visual Materials (Form IA-862).

Basic rights—means the world-wide non-restrictive ownership rights in audio-visual materials from which the assignment of subsidiary rights (such as language versions, television, limited distribution, reproduction, etc.) are derived.

Beirut Agreement—means the "Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character."

Certificate—means a document attesting that the named material complies with the standards set forth in Article I of the Beirut Agreement issued by: (1) The appropriate government agency of the State wherein the material to which the certificate relates originated, or (2) by the United Nations Educational, Scientific or Cultural Organization.

Certification—means the process of obtaining a certificate attesting that audio-visual materials of United States origin being exported from the United States comply with the standards set forth in Article I of the Beirut Agreement, as interpreted pursuant to Section 207 of Public Law 101-138.

Collateral instructional material—means a teacher's manual, study guide, or similar instructional material prepared or reviewed by a bona fide subject matter specialist. Such material must delineate the informational or instructional objectives of the audio-visual material and illustrate or explain how to utilize such material to attain the stated objectives.

Committee on attestation—means the committee which advises the Attestation Officer on matters of policy and the evaluation of specific materials.

Director—means the Director of the United States Information Agency.

Exports—means educational, scientific, and cultural audio-visual material of United States origin, being sent from the United States.

Importation document—means the United States Importation Document for Audio-visual Materials (Form IA-862) issued by the Chief Attestation Officer of the United States which attests that materials of foreign origin entering the United States comply with the standards set forth in Article I of the Beirut Agreement (as interpreted pursuant to section 207 of Public Law 101-138) and is therefore entitled to duty-free entry into the United States pursuant to the provisions of United States Customs Bureau Harmonized Tariff System Item No. 9817.00.4000.

Imports—means educational, scientific, and cultural audio-visual material of foreign origin being brought into the United States.

Instruct or inform—means to teach, train or impart knowledge through the development of a subject or aspect of a subject to aid the viewer or listener in a learning process. The instructional or informational character of audio-visual material may be evidenced by the presence of collateral instructional material.

Knowledge—means a body of facts and principles acquired by instruction, study, research, or experience.

Review Board—means the panel appointed by the Director to review appeals filed by applicants from decisions rendered by an Attestation Officer.

Serial certification—means certification by the Agency of materials produced in series form and which, for time-sensitive reasons, cannot be reviewed prior to production; but samples are provided on application, and the materials are subject to post-certification review.

Subject matter specialist—means an individual who has acquired special skill in or knowledge of a particular subject through professional training or practical experience.

[59 FR 18965, Apr. 21, 1994, as amended at 60 FR 29989, June 7, 1995]

§ 502.3 Certification and authentication criteria.

(a) The Agency shall certify or authenticate audio-visual materials sub-

mitted for review as educational, scientific and cultural in character and in compliance with the standards set forth in Article I of the Beirut Agreement when: (1) Their primary purpose or effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and goodwill; and

(2) The materials are representative, authentic, and accurate; and

(3) The technical quality is such that it does not interfere with the use made of the material.

(b) The Agency will not certify or authenticate any audio-visual material submitted for review which:

(1) Does not primarily instruct or inform through the development of a subject or aspect of a subject and its content is not such as to maintain, increase or diffuse knowledge.

(2) Contains widespread and gross misstatements of fact.

(3) Is not technically sound.

(4) Has as its primary purpose or effect to amuse or entertain.

(5) Has as its primary purpose or effect to inform concerning timely current events (newsreels, newscasts, or other forms of "spot" news).

(6) Stimulates the use of a special process or product, advertises a particular organization or individual, raises funds, or makes unsubstantiated claims of exclusivity.

(c) In its administration of this section, the Agency shall not fail to qualify audio-visual material because:

(1) It advocates a particular position or viewpoint, whether or not it presents or acknowledges opposing viewpoints;

(2) It might lend itself to misinterpretation, or to misrepresentation of the United States or other countries, or their people or institutions;

(3) It is not representative, authentic, or accurate or does not represent the current state of factual knowledge of a subject or aspect of a subject unless the material contains widespread and gross misstatements of fact;

(4) It does not augment international understanding and goodwill, unless its

primary purpose or effect is not to instruct or inform through the development of a subject or an aspect of a subject and its content is not such as to maintain, increase, or diffuse knowledge; or

(5) In the opinion of the agency the material is propaganda.

(d) The Agency may certify or authenticate materials which have not been produced at the time of application upon an affirmative determination that:

(1) The materials will be issued serially,

(2) Representative samples of the serial material have been provided at the time of application,

(3) Future titles and release dates have been provided to the Agency at the time of application,

(4) The applicant has affirmed that:

(i) Future released materials in the series will conform to the substantive criteria for certification delineated at paragraphs (a) through (c) of this section;

(ii) Such materials will be similar to the representative samples provided to the Agency on application; and

(iii) The applicant will provide the Agency with copies of the items themselves or descriptive materials for post-certification review.

(e) If the Agency determines through a post-certification review that the materials do not comply with the substantive criteria for certification delineated at paragraphs (a) through (c) of this section, the applicant will no longer be eligible for serial certifications. Ineligibility for serial certifications will not affect an applicant's eligibility for certification of materials reviewed prior to production.

[59 FR 18965, Apr. 21, 1994, as amended at 60 FR 29989, June 7, 1995]

§ 502.4 Certification procedures—Exports.

(a) Applicants seeking certification of U.S. produced audio-visual materials shall submit to the Agency a completed Application Form for each subject or series for which certification is sought. Collateral instructional material, if any, and a copy or example of the material must accompany the Application Form.

(b) Upon an affirmative determination by the Agency that the submitted materials satisfy the Certification and Authentication Criteria set forth in § 502.3 of this part, a Certificate shall be issued. A copy of such Certificate must accompany each export shipment of the certified material.

§ 502.5 Authentication procedures—Imports.

(a) Applicants seeking Agency authentication of foreign produced audio-visual materials shall submit to the Agency a *bona fide* foreign certificate, a copy or example of the material for which authentication is sought, and related collateral instructional material, if any.

(b) Upon an affirmative determination by the Agency that the submitted materials satisfy the Certification and Authentication Criteria set forth in § 502.3 of this part, an Importation Document shall be issued. A copy of such Importation Document must be presented to United States Customs at the port of entry.

§ 502.6 Consultation with subject matter specialists.

(a) The Agency may, in its discretion, solicit the opinion of subject matter specialists for the purpose of assisting the Agency in its determination of whether materials for which export certification or import authentication is sought contain widespread and gross misstatements of fact.

(b) As necessary, the Agency may determine eligibility of material for certification or authentication based in part on the opinions obtained from subject matter specialists and the Committee on Attestation.

§ 502.7 Review and appeal procedures.

(a) An applicant may request a formal review of any adverse ruling rendered by the Attestation Officer. Such request for review must be made in writing and received no more than 30 days from the date of the Attestation Officer's decision.

(b) The request for review must set forth all arguments which the applicant wishes to advance in support of his or her position and any data upon which such argument is based. A copy

§ 502.8

of the material for which certification or authentication has been denied must accompany the request for review. The request for review should be addressed as follows: Attestation Program Review Board (GC/A), U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

(c) The Review Board shall render the applicant a written decision, reversing or affirming the ruling of the Attestation Officer, within 30 days from receipt of the request for review. Such decision shall constitute final administrative action.

§ 502.8 Coordination with United States Customs Service.

(a) Nothing in this part shall preclude examination of imported materials pursuant to the Customs laws and regulations of the United States as codified at 19 U.S.C. 1305 and 19 CFR 10.121, or the application of the laws and regulations governing the importation or prohibition against importation of certain materials including seditious or salacious materials as set forth at 19 U.S.C. 1305.

(b) Agency authentications of a foreign certificate for entry under HTS Item No. 9817.00.4000 will be reflected by the issuance of an Importation Document. A copy of each Importation Document issued by the Agency will be simultaneously furnished the United States Customs Service.

(c) Customs User Fee: Articles delivered by mail, which are eligible for duty-free entry under the regulations in this part are, additionally, not subjected to the standard Customs User Fee normally imposed by the United States Customs Service, provided there has been a timely filing with the appropriate United States Customs Service office of the documentation required by the regulations in this part.

§ 502.9 General information.

General information and application forms may be obtained by writing to the Attestation Office as follows: Chief Attestation Officer of the United States (GC/A), United States Information Agency, 301 4th Street, SW., Washington, DC 20547; or calling (202) 475-0221.

PART 503—AVAILABILITY OF RECORDS

- Sec.
- 503.1 Introduction and definitions.
- 503.2 Making a request.
- 503.3 Availability of agency records.
- 503.4 Time limits.
- 503.5 Records available for public inspection.
- 503.6 Restriction on some agency records.
- 503.7 Fees.
- 503.8 Exemptions.
- 503.9 Electronic Records Act of 1996.

AUTHORITY: 5 U.S.C. 301, 552; 13 U.S.C. 8; 22 U.S.C. 503, 2658; E.O. 10477, 18 FR 4540, 3 CFR, 1949-1953 Comp., p. 958; E.O. 10822, 24 FR 4159, 3 CFR, 1959-1963 Comp., p. 355; E.O. 12292, 46 FR 13967, 3 CFR, 1981 Comp., p. 134; E.O. 12356, 47 FR 14874 and 15557, 3 CFR, 1982 Comp., p. 166; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

EDITORIAL NOTE: Nomenclature changes affecting part 503 appear at 51 FR 11015, Apr. 1, 1986.

§ 503.1 Introduction and definitions.

(a) Introduction. The FOIA and this part apply to all records of the United States Information Agency, including all of its foreign posts. As a general policy, USIA follows a balanced approach in administering the FOIA. We recognize the right of public access to information in the possession of the Agency, but we also protect the integrity of the Agency's internal processes. This policy calls for the fullest possible disclosure of records consistent with those requirements of administrative necessity and confidentiality which are recognized by the Freedom of Information Act.

(b) Definitions—*Access Appeal Committee* or *Committee*, means the Committee delegated by the Agency Director for making final Agency determinations regarding appeals from the initial denial of records under the FOIA. This Committee also reviews final appeal denials of documents made by the National Endowment for Democracy (NED) for its records.

Agency or *USIA* means the United States Information Agency. It includes all components of USIA in the U.S. and all foreign posts abroad (known as the U.S. Information Service or USIS). (See 22 CFR part 504, chapter V—Organization.)