



INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
LEGAL AFFAIRS OFFICE

OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

**United States Section of the International Boundary and Water Commission (USIBWC)
Chief Freedom of Information Act (FOIA) Officer's Annual Report**

**USIBWC Chief FOIA Officer:
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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

FOIA Training:

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

Yes. Chief Counsel, Matthew Myers, attended the February 25-26, 2015, training offered by the Department of Justice in Washington, D.C.

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

None.

3. *In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.*

The head of the Agency fully supports FOIA training for the Agency's FOIA professionals. The Assistant Legal Advisor's Performance Plan includes attending FOIA training and the Chief Legal Advisor attended a FOIA workshop provided by Department of Justice (DOJ) in February of 2015. The FOIA staff is seeking FOIA training opportunities on an ongoing basis.

Discretionary Releases:

4. *Does your agency have a distinct process or system in place to review records for discretionary release?*

YES. There is not a formal process in place for whether documents which fall within a FOIA exemption can be released as a matter of discretion. However, the Agency generally will decide in favor of disclosure if a discretionary release is an option. This determination is made by the Agency's reviewing FOIA officer and is done on a case-by-case basis.

5. *During the reporting period, did your agency make any discretionary releases of information?*

No.

6. *What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's FOIA Memoranda.*

N/A.

7. *Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.*

N/A.

8. *If your agency was not able to make any discretionary releases of information, please explain why.*

Agency made redactions primarily for protecting personal or private information.

Other Initiatives:

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

N/A.

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

As the Attorney General emphasized in his FOIA Guidelines, "application of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

Processing Procedures:

10. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

6 days.

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

N/A

Requester Services:

12. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)

Yes.

13. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013)

Yes.

14. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See *id.*

Yes.

Other Initiatives:

15. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

During 2014, the Agency established protocols for processing FOIA requests by standardizing procedures and utilizing template language. For example, the Agency has a template for information provided in costs estimates and language notifying requesters of their appeal rights, and mediation services offered by OGIS. Currently, FOIA personnel are creating an Agency FOIA Guidebook of the standard procedures required for processing a FOIA request to ensure continuity of these newly-established protocols.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

16. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Yes. There is no formal system in place. However, certain offices within the Agency will ask our webmaster to upload information the Agency wants to share with the general public.

17. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

N/A.

18. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

We post frequently-requested materials on the Agency website at: <http://www.ibwc.state.gov/>. These materials include:

- Current Projects and Activity Maps**
- Environmental Reports and Studies**
- Lower Rio Grande Flood Control Project brochure**
- Minutes between U.S. and Mexican Sections of the IBWC**
- Minutes between U.S. and Mexican Sections of the IBWC by Project**
- Treaties between the U.S. and Mexico**
- Water Accounting Reports**
- Annual Reports covering the activities of the U.S. Section of the IBWC**
- Criteria for Construction Activities within the limits of USIBWC Floodways**
- Permits and License Checklist, Instructions for License Request Strategic Plan**
- USIBWC's Executive Order 13392 Implementation Plan**
- Equal Opportunity Policy**
- EEO Program Counselor's Handbook**
- Policy and Procedure on Harassment**
- Handbook for Procedures for Facilitating the Provision of Reasonable Accommodations**
- Water Bulletins for the Rio Grande and Western Boundary**
- Real Time and Historic Flow Data for water gauging stations**
- Texas Clean Rivers Data**
- Environmental Data**

19. *Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.*

See answer above.

Other Initiatives:

20. *If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.*

The Agency is in the process of creating a map of its land assets (easements, rights of way, etc.) that should be made available to the public in the future. It is also creating a portal that provides information on the Agency's restoration sites, such as location of the sites and well-data relevant to the site.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

Online Tracking of FOIA Requests and Appeals:

Not required, but agencies may answer the questions for this section if they have information they would like to include

21. *Can a member of the public track the status of his or her request or appeal electronically?*

22. *If yes, how is this tracking feature provided to the public? For example, is it being done through the regular posting of status logs, an online portal, or through another medium?*

23. *If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is "open" or "closed," while others will provide further details throughout the course of the processing, such as "search commenced" or "documents currently in review."*

24. *If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion?*

25. *If your agency does not provide online tracking of requests or appeals, is your agency taking steps to establish this capability? If not, please explain why?*

Making Material Posted Online More Useful:

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

No.

27. *If yes, please provide examples of such improvements.*

N/A.

28. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?*

No.

29. *If so, please briefly explain what those challenges are.*

N/A.

30. *Did your agency successfully post all four quarterly reports for Fiscal Year 2014?*

The Agency posted its quarterly FOIA reports. However, due to a technical difficulty, the OIP's automated tool did not collect the reports for display on FOIA.gov and the information did not appear on FOIA.gov. The Agency has worked with OIP to resolve the issue.

31. *If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.*

See answer above.

32. *Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?*

Yes.

33. *If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See id.*

N/A.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.*

Simple Track: Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

Yes.

35. *If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?*

No.

36. *Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.*

100%

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

N/A.

Backlogs: Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

38. *If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

No.

39. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."*

8.8%

BACKLOGGED APPEALS

40. *If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

The Agency had no appeals during FY 2014.

41. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."*

N/A.

Status of Ten Oldest Requests, Appeals, and Consultations: Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

42. *In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

Yes.

43. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.*

N/A.

44. *Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?*

None.

TEN OLDEST APPEALS

45. *In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

N/A.

46. *If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.*

N/A.

TEN OLDEST CONSULTATIONS

47. *In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

N/A.

48. *If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.*

N/A.

Additional Information on Ten Oldest Requests, Appeals, and Consultation:

49. *Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.*

None.

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

N/A.

51. *If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2015.*

N/A.

Use of the FOIA’s Law Enforcement Exclusions

52. *Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?*

No.

Success Story

Not required, but agencies may answer the questions for this section if they have information they would like to include

Out of all the activities undertaken by your agency since March 2014 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.