

**UNITED STATES SECTION
INTERNATIONAL BOUNDARY & WATER COMMISSION
UNITED STATES AND MEXICO (USIBWC)**



**FREEDOM OF INFORMATION ACT
ANNUAL REPORT: FISCAL YEAR 2008**

Pursuant to 5 U.S.C.A. § 552(e)(1), the following constitutes the Freedom of Information Act (FOIA) Annual Report for fiscal year 2008, submitted by the United States Section, International Boundary & Water Commission, United States and Mexico.

I. Basic Information Regarding Report

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2. Electronic Link: <http://www.ibwc.state.gov/Organization/FOIA.html>
3. The Report in paper form can be obtained utilizing the above contact guidance.

II. Making a FOIA Request

1. For the contact information of all individuals who receive FOIA requests, the website can be found at: <http://www.ibwc.state.gov/Organization/FOIA.html>
2. Brief Description: The USIBWC is a federal agency and the United States component of the International Boundary and Water Commission (IBWC), an international organization which applies the boundary and water treaties of the United States and Mexico. Its mission includes boundary demarcation, sanitation, water quality, national ownership of waters, and flood control for the border region. The most frequent reason requests were not granted during fiscal year 2008 was that the agency's search did not locate documents responsive to the request. The USIBWC has also protected deliberative correspondence, and information subject to the civil discovery privileges.

III Acronyms, Definitions and Exemptions

1. Agency-specific acronyms or other terms:

| | |
|--------|--|
| USIBWC | United States International Boundary and Water Commission |
| IBWC | International Boundary and Water Commission, U.S. and Mexico |

2. Definitions:

a. Administrative Appeal – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.

- b. Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entireties

under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.

- j. Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions of the nine FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information

- b. **Exemption 2:** internal agency rules and practices
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. Exemption 3 Statutes

| Statute | Type of information withheld | Case citation | No. of times relied upon per component | Total no. of times relied by agency |
|----------------|--------------------------------------|----------------------|---|--|
| 22 USC 288a | Official Communications deliberative | none | 1 | 1 |

Statement of whether a court has upheld the use of each statute. If so, cite example: No legal challenges found presented.

V. FOIA Requests

A. Received, Processed and Pending FOIA Requests

| No. of requests pending as of start of fiscal year | Number of requests received in fiscal year | Number of requests processed in fiscal year | No. of requests pending as of end of fiscal year |
|---|---|--|---|
| 0 | 24 | 24 | 0 |

B(1). Disposition of FOIA Requests – All processed requests

| Number of full grants | Number of partial grants/partial denials | Number of full denials based on exemptions | Number of full denials based on reasons other than Exemptions | | | | | | | | | |
|-----------------------|--|--|---|--|-------------------|--------------------|----------------------------------|---|-------------------|-------------------|-------|-------|
| | | | No Records | All records referred to other agency component | Request withdrawn | Fee-Related reason | Records not reasonably described | Improper FOIA request f or other reason | Not agency record | Duplicate request | Other | Total |
| 11 | 6 | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 |

B(2). Disposition of FOIA Requests - “Other” reasons for “Full Denials based on reasons other than Exemptions”

| Description of “Other reasons for denials from chart B(1) and number of times reasons were relied upon | Total |
|--|-------|
| N/A | N/A |

B(3). Disposition of FOIA Requests – Number of Times Exemptions Applied

| Ex. 1 | Ex. 2 | Ex. 3 | Ex. 4 | Ex. 5 | Ex. 6 | Ex. 7 | Ex. 8 | Ex. 9 |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 |

VIII. Requests for Expedited Processing and Requests for Fee Waiver

A. Requests for Expedited Processing

| Number Granted | Number Denied | Median number of days to Adjudicate | Average number of days to Adjudicate | No. adjudicated within 10 calendar days |
|----------------|---------------|-------------------------------------|--------------------------------------|---|
| 0 | 0 | 0 | 0 | 0 |

B. Requests for Fee Waiver

| Number Granted | Number Denied | Median number of days to Adjudicate | Average number of days to Adjudicate |
|----------------|---------------|-------------------------------------|--------------------------------------|
| 4 | 0 | 1 | 1 |

IX. FOIA Personnel and Costs

| PERSONNEL | | | COSTS | | |
|--------------------------------------|---|--------------------------------------|------------------|--------------------------|-------------|
| Number of “full-time FOIA Employees” | Number of “equivalent full-time FOIA Employees” | Total number of Full-time FOIA Staff | Processing costs | Litigation-related costs | Total Costs |
| 0 | .48 | .48 | 33,270.25 | 0 | 33,270.25 |

X. Fees Collected for Processing Requests

| Total Amount of Fees Collected | Percentage of Total Costs |
|--------------------------------|---------------------------|
| \$38.25 | .11 % |

XI. FOIA Regulations

The USIBWC FOIA implementing regulation is codified at 22 CFR Part 1102. The regulation and its subparts can be retrieved electronically at: http://www.access.gpo.gov/nara/cfr/waisidx_07/22cfr1102_07.html

XII. Backlogs, Consultations and Comparisons

A. Backlogs of FOIA Requests & Administrative Appeals

| Number of Backlogged Requests as of End of Fiscal Year | Number of Backlogged Appeals as of End of Fiscal Year |
|--|---|
| 0 | 0 |

B. Consultations on FOIA Requests: Received, Processed & Pending Consultations

| No. of consultations received from other agencies that were pending as of start of the fiscal year | Number of consultations received from other agencies during the fiscal year | No. of consultations received from other agencies that were processed during the fiscal year | No. of consultations received from other agencies that were pending as of the end of fiscal year |
|--|---|--|--|
| 0 | 1 | 1 | 0 |

C. Consultations on FOIA Requests: Ten Oldest Pending Consultations received from other Agencies

| 10 th oldest consultation and number of days pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest consultation and number of days pending |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--|
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

D. Comparison of Numbers of Requests from Previous and Current Annual Reports – Requests Received, Processed, and Backlogged

| Number of Requests Received | | Number of Requests Processed | |
|---|---|--|--|
| Number Received during fiscal year from last year's annual report | Number received from fiscal year from current annual report | Number Processed during fiscal year from last year's annual report | Number Processed from fiscal year from current annual report |
| 23 | 24 | 23 | 24 |

| Number of Backlogged Requests as End of the Fiscal Year from Previous Annual Report | Number of Backlogged Requests as End of the Fiscal Year from Current Annual Report |
|--|---|
| 0 | 0 |

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

| Number of Appeals Received | | Number of Appeals Processed | |
|---|---|--|--|
| Number Received during fiscal year from last year's annual report | Number Received from fiscal year from current annual report | Number Processed during fiscal year from last year's annual report | Number Processed from fiscal year from current annual report |
| 1 | 0 | 1 | 0 |

| Number of Backlogged Appeals as End of the Fiscal Year from Previous Annual Report | Number of Backlogged Appeals as End of the Fiscal Year from Current Annual Report |
|---|--|
| 0 | 0 |

F. The agency will take the appropriate measures to stay current on statutes and regulations, as well as any potential changes in policy or otherwise involved with the new administration. In addition the agency will be reviewing and updating its regulations as necessary.