

United States Section  
International Boundary and Water Commission  
United States and Mexico (USIBWC)

Chief FOIA Officer Report: 2011

Part I: Steps Taken to Apply the Presumption of Openness

1. An update was provided to FOIA Office personnel in response to the President's memorandum and Attorney General's guidelines of March 19, 2009. Policy regarding the presumption of openness is discussed with staff and FOIA Office personnel on a regular basis in the distribution of and responses to requests. While trainings have not been attended due to budgetary constraints, FOIA personnel have made it a practice to routinely review the OIP site to keep updated on posts and guidance. Employees were provided a copy of the President's January 21, 2009 FOIA Memorandum and the above cited guidance provided by the Attorney General. All related guidance is saved to the FOIA database for continual reference by FOIA Personnel. The agency is in the process of modifying its internal guidance to reflect the presumption of openness. Over the past year, the agency discretionarily released communications, specifically inter-agency electronic mail, which likely would be considered pre-decisional and deliberative in nature. Therefore, such documents would likely have been protectable under exemption b(5). In reviewing records, mere defensibility is not considered the sole standard, but harm to the interests protected by the exemptions or as statutorily mandated. Further, the OIP-FOIA hotline is utilized to a much greater extent to discuss the more difficult requests, to discuss considerations of disclosure or non-disclosure, or to discuss any other FOIA related concerns.

2. The 2010 Annual Report had a total of 16 requests (of 29) where records were released in full, as compared to the 2009 Annual Report, which had a total of 11 requests (of 24) where records were released in full. The 2010 Annual Report had a total of 6 requests where records were released in part, while the 2009 Annual Report had a total of 4 requests where records were released in part.

Part II: Steps Taken to Ensure that USIBWC has an Effective System for Responding to Requests

The USIBWC continues to endeavor to ensure its Requester Service Center page is accessible and user-friendly, in addition to providing guidance to requestors or potential requestors. Often, requestors are seeking information already viewable on the agency website; therefore, the office at times has assisted in satisfying inquiries before submittal of a formal request. A productive relationship is maintained among open government assisting personnel including FOIA personnel, the Internal/Recovery Auditor and Information Technology head to ensure any potential issues are addressed and to ensure that helpful changes or additions of information to the service center page, such as Annual Reports, are made in a timely manner. In reviewing resources dedicated to the FOIA function, it was determined that an additional employee would be dedicated to

assist part time in providing administrative assistance with FOIA processing, to provide liaison assistance, and similar duties. Further, assuming budgetary availability, the new assistant and current personnel would receive respective appropriate FOIA training to ensure updated capability.

### Part III: Steps Taken to Increase Proactive Disclosures

The agency strives to keep the public informed of many types of information and data sets. While it provides historical minutes pertaining to its treaties, it also provides updates on the type of minutes taken from its continually held citizen forums. The agency also posts contract award information and construction schedules, where in the past such information may have been relegated to FOIA requested information. Present and past requests, including logs kept pursuant to FOIA, are routinely reviewed to determine frequency and propriety for posting. The agency's website and providing of email contact information is utilized for submittal of FOIA requests or related inquiries electronically; 'social media' in another capacity has thus far not been utilized. The agency will continue to work in reviewing requests and data sets to determine helpful and frequently requested data.

### Part IV: Steps Taken to Greater Utilize Technology

Regarding electronic receipt of FOIA requests, the agency receives requests by email, facsimile and via a downloadable electronic FOIA Request form included in the FOIA Requester Service Center page. Regarding electronic tracking of FOIA requests, the agency utilizes spreadsheets and intra-agency email to ensure and document distribution and receipt of requests, and for status related inquiries. Regarding electronic processing of FOIA requests, requests are able to be scanned with much more efficiency with the addition of an updated scanner; therefore, requests are able to be distributed to appropriate personnel in a timelier manner via intra-agency email. Regarding electronic preparation of the Annual FOIA Report, the agency does not utilize a FOIA-specific data processing system. To date, the agency has been satisfied with the existing system of the reports' preparation, also relying on the helpful guidance provided by OIP.

### Part V: Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status: In fiscal year 2009, there were 0 backlogged administrative appeals and 0 backlogged requests. In fiscal year 2010, there were 0 backlogged administrative appeals and 1 backlogged request; however, the request was completed November 2010.

2. Backlog Reduction: The 1 backlogged request that remained in fiscal year 2010 was extensive and was resolved in November 2010, bringing all backlogged requests and appeals to 0. The agency has been able to keep all backlogs to 0 or a minimal number due to prioritizing of the FOIA function, and the manageable number of requests received; though there has been a steady increase in requests due to enhanced accessibility and increased awareness and interest in the agency's bi-national mission.

3. Monitoring of Backlog: The agency routinely monitors the progress of the FOIA caseload, with a goal of responding to requests within the statutory limit. The agency has also dedicated an additional staff member to assist with FOIA processing as part of their duty; the agency also intends to provide training to current and newly dedicated staff. The agency has also worked closer and more frequently with its IT department to assist with enabling electronic searches, and to provide assistance with responses where the agency creates a temporary site where each requester can directly download responsive documents, rather than send large amounts of documents by email or hard copy. The agency's Chief FOIA Officer is involved in examining the goals, caseload and process utilized by the agency, recommending enhanced server capabilities and updated training for FOIA personnel.

#### Spotlight on Success

The agency has begun to a much greater extent to utilize temporarily accessible sites for requesters with large amounts of responsive documents. Requesters have appreciated the agency's efforts in providing them the ability to access a temporarily created site to directly download responses and responsive documents, rather than be provided numerous or large emails, or hard copies via postal mail or fax. The agency will strive to utilize such approach to the extent possible.