

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



Chief FOIA Officer Report
March 2012 to March 2013

Part 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. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

The Agency's FOIA office continues to practice its decision-making process with the presumption of openness in mind. During this period, the Agency released voluminous amounts of documents in an arduous request; in past practice many of the released documents may likely have been withheld as predecisional and deliberative.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

During the applicable period, the Agency did not hold a FOIA conference or otherwise conduct or attend training during such period. Periodic guidance was provided on the process and presumption via a large mass email.

Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

One of the Office's assistants was able to attend DOJ training in Washington, D.C. Unfortunately due to budgetary constraints, such was the only FOIA professional able to attend during such period.

Attorney General Holder's guidelines strongly encouraged agencies to make discretionary releases of information, and OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

2. Did your agency make any discretionary releases of otherwise exempt information?

Also described above, the Agency made discretionary releases of documents in a number of voluminous request. In past practice a number of the documents may have been determined to be withheld from disclosure pursuant to deliberative process considerations.

3. What exemptions would have covered the information that was released as a matter of discretion?

Pursuant to exemption b(5), correspondence and communications likely constituting deliberative, predecisional inter-agency and intra-agency memorandums or letters.

4. Provide a narrative description, and some examples of, the types of information that your agency released as a matter of discretion.

Essentially, predecisional or deliberative communications that would not be considered substantial enough to have a chilling effect on subsequent intra-agency comment or input.

5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. process to review records to determine whether discretionary releases are possible.

While the integrity of the agency's deliberative process remains important, the FOIA officer(s) review all documents produced with enhanced consideration of disclosure even where an exemption may apply, and even where in past practice such document or similar document may have been ordinarily withheld. The concepts of foreseeable harm and presumption of openness have been key to such approach.

Part II: Steps taken to ensure that Agency has Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication 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."

Describe steps taken to ensure that agency system for responding to requests is effective and efficient.

1. Do FOIA professionals within your agency have sufficient IT support?

Yes, the Agency receives sufficient and valuable assistance from its IT Division, working closely to find better solutions for better coordination and response.

2. Do your FOIA professionals work with your agency's Open Government Team?

Yes, FOIA personnel are essential for such function.

3. Has your agency assessed whether adequate staff is being devoted to FOIA administration?

The agency has assessed such issue. This year an additional staff member is planned to be added to the FOIA office, constituted by the legal affairs office. While such employee would not be considered full time for FOIA purposes, the individual's duties would include FOIA processing, coordination, research, review etc. as part of such duties.

4. Describe any other the 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, streamlining consultations, eliminating redundancy, etc.

The agency continues to assess its system to improve upon its ability to respond to voluminous requests in a thorough, efficient and effective manner. It has worked closely with its IT division to better utilize a centralized tool/site allowing multiple divisions to coordinate and provide responsive documents. The agency still hopes to obtain FOIA specific agency software in the future, though there are present budgetary constraints.

Part 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 steps taken to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures.

1. Provide examples of materials that your agency has posted this year.

With international solutions and treaty enforcement issues between the US and Mexico as part of its mission, the agency made available a series of detailed bi-national, Rio Grande boundary image maps created through bi-national agency coordination. Over the pertinent period, the agency also posted high resolution, leaf-off aerial imagery for the Lower Rio Grande Valley and portions of the U.S. Mexico Border.

2. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

Yes

3. If so, provide examples of such improvements.

The agency regularly holds public citizens forums, where the community of individuals commonly interested in agency materials may be informed of updated content, including updated treaty minutes, posted treaty content, agency maps, press releases, updated water data, flood warning data, environmental studies and reports and other related materials, welcoming feedback on the posting of such content. The agency also regularly solicits questions on sought data sets in interactions and inquiries with requesters and potential requesters.

4. Describe any other steps taken to increase proactive disclosures at your agency.

The FOIA Office periodically consults various divisions on the availability of additional updated data sets for posting. In doing so, such divisions are encouraged to contact the FOIA office should they believe a data set is appropriate and available for posting.

Part 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."

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes, via email and through the agency's website.

2. If your agency is decentralized, can FOIA requests be made electronically to all components of your agency?

n/a

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

Other than electronic mail of requests for status updates with the agency assigned tracking number, the agency does not have other such capability or electronic system in place.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

n/a - no electronic process other than emailed updates to status requests.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

n/a - no electronic process other than email estimation update to status request.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

The Agency does not have the capability to provide online tracking. The Agency shall take steps however to better understand and utilize such capability, including study of other agencies' sites and consultation with agency's information management division in furtherance of such capability.

Use of technology to facilitate processing of requests:

7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

The agency is greater utilizing a relatively new intra-agency platform to centralize divisional coordination in responding to voluminous requests. Further, while budgetary constraints remain, the agency continues to research into obtaining FOIA based software for improving record search, and other related capabilities.

8. If so, describe the technological improvements being made.

The agency is greater utilizing a relatively new intra-agency platform to centralize divisional coordination in responding to voluminous requests. Further, while budgetary constraints remain, the agency continues to research into obtaining FOIA based software for improving record search, and other related capabilities.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests.

1. Refer to Section VII.A of your Annual FOIA Report for figures on FOIA Requests - Response Time for All Processed Requests
 - a. Does your agency utilize a separate track for simple requests?

Yes
 - b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Yes
 - c. If your agency does not rack simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

n/a
2. Refer to Sections XII.D.(2) and XII.E.(2) of your Annual FOIA Report for figures on backlogged requests/appeals, and Sections VII.E and VI.C.(5) on the ten oldest pending requests/appeals.
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

No (1 backlogged request in 2012; 0 in 2011)
 - b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

n/a - no backlog, same as previous year
 - c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

Yes
 - d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

n/a

3. If you answered "no" to any question in "item 2", answer the following questions and include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

no

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

no

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

no

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Combination of complexity and timing of receipt of complex, voluminous request received in latter part of fiscal year

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

n/a

- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

n/a

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

n/a

- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

n/a

4. OIP issued guidance encouraging agencies to make interim releases on requests that involve a voluminous amount of material or require searches in multiple locations. If your agency had a backlog in Fiscal Year 2012, provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

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Use of FOIA's Law Enforcement "Exclusions"

Answer the following questions concerning the use of the FOIA's statutory law enforcement exclusions, 5 USC 552 (c)(1), (2), (3):

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

no

2. If so, what was the total number of times exclusions were invoked?

n/a

Spotlight on Success

Describe one success story that you would like to highlight as emblematic of your agency's efforts.

In this period, one very large news outlet related request required the coordination of multiple divisions, concerning voluminous documents. Utilizing a relatively new agency mechanism/tool for coordination and centralization of divisions regarding specific requests, using 'teams', the agency successfully provided the voluminous documents and response within the statutory 20 days, not requiring extension of response time.

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