

**UNITED STATES INTERNATIONAL BOUNDARY & WATER COMMISSION (USIBWC)
FREEDOM OF INFORMATION ACT (FOIA) REQUESTS AND APPEALS
EXECUTIVE ORDER 13392, REPORT AND PLAN**

A. OVERALL NATURE OF AGENCY'S FOIA PROGRAM

The United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC), is a relatively small agency that receives a limited amount of FOIA requests per year. During FY2006, the USIBWC received a total of twenty-one (21) FOIA requests, a total of nineteen (19) FOIA requests during FY2005, and a total of twelve (12) FOIA requests during FY2004. The USIBWC has not and does not employ full-time FOIA personnel, but rather the Agency utilizes otherwise designated personnel to process FOIA requests as part of his or her overall responsibilities.

Over the last three (3) years, the USIBWC's FOIA program has been implemented by the Internal Auditor of the Agency. The Internal Auditor has carried out the FOIA function as the sole FOIA Officer. Although the Internal Auditor's operation of the FOIA program over the last 3 years has been deemed satisfactory, for resource and suitability purposes, it was determined in the last quarter of FY2006 that the FOIA program would be improved by the transfer of the FOIA function from the Internal Auditor to the Office of the Legal Advisor. The Agency is currently in the process of this transition.

Prior to the recent yet gradual transition of the FOIA program to the Office of the Legal Advisor, the Agency's Internal Auditor carried out FOIA operations as a part of his overall responsibilities. Presently and over the last two and one

half months, the USIBWC has utilized one Paralegal Specialist and one Attorney-Advisor to carry out the FOIA program as part of his or her overall duties.

B. LIST ALL AREAS SELECTED FOR REVIEW

The USIBWC reviewed all pertinent areas for potential improvements.

C. SUMMARY OF RESULTS OF REVIEW

The USIBWC review of its FOIA program showed a process that has been sufficient over the last 3 years, but leaves room for improvement. On the positive side, there is seldom a backlog of FOIA requests, and with some necessary exceptions, the majority of requests have been completed within the 20-day statutory period. This is due in part to the Agency's capability and practice of completing requests electronically when specified by Requesters. Any backlogs which have occurred have been both minimal and temporary in nature. In rare cases where additional time for response is required, contact is made with the requester, and the processing is completed in a timely manner. Considering the limited amount of FOIA requests the USIBWC receives each fiscal year (an average of about 18), its part-time approach to the FOIA process is concluded to be sufficient. The hiring of a full time FOIA employee is deemed unnecessary. Still, the USIBWC identified areas in which changes for improvement would be both feasible and prudent.

The USIBWC has already begun to act in one major area deemed to require a change, specifically, the transition of the FOIA Program to the Office of the Legal Advisor. Over the course of the new fiscal year and forward, the FOIA

personnel in the Office of the Legal Advisor will commit to assuring a smooth transition and maintaining the positive aspects of its current FOIA program, while striving to improve in areas that require enhanced effectiveness or efficiency.

D. AREAS CHOSEN AS IMPROVEMENT AREAS FOR USIBWC PLAN

1. Complete the transition of the Agency's FOIA Program from the Internal Auditor to the Office of the Legal Advisor
2. Designation of Chief FOIA Officer and FOIA Public Liaison
3. Designation of FOIA Requester Service Center
4. Website Improvement
5. Agency FOIA Directive - Updating and Clarification
6. FOIA Training
7. Timeliness of responses
8. Maintaining of minimal backlog
9. Maintaining professionalism and courtesy with FOIA Requesters

USIBWC FOIA PLAN

COMPLETE THE TRANSITION OF THE AGENCY'S FOIA PROGRAM FROM THE INTERNAL AUDITOR TO THE OFFICE OF THE LEGAL ADVISOR

- (a) Anticipated to be completed by December 31, 2006.
- (b) The Agency shall strive to complete the transition of the FOIA Program from the Agency's Internal Auditor to the Office of the Legal Advisor in a manner which is thorough yet timely. In coordination with the Internal Auditor, FOIA personnel in the Office of the Legal Advisor shall work to ensure the following:

1. All requests, files, electronic documents, or other pertinent FOIA documents are transferred.

2. All Agency personnel are aware of the transition of the FOIA Program to the Office of the Legal Advisor and are instructed to proceed with requests accordingly.

3. The Agency website accurately reflects the newly designated FOIA Officers and their contact information, as well as the omission of the section which designates the Internal Auditor as the FOIA point of contact.

DESIGNATION OF CHIEF FOIA OFFICER AND FOIA PUBLIC LIAISON

(a) Anticipated to be completed by November 31, 2006.

(b) As a part of the transition of the FOIA Program from the Internal Auditor to the Office of the Legal Advisor, the Agency shall designate a new Chief FOIA Officer, FOIA Officer and Public Liaison by the end of the calendar year. Such designations will enhance centralization of Agency routing, and will be more easily located and identified on the Agency's website.

(c) A memorandum describing the Officer designations and the routing of FOIA requests shall be drafted and distributed Agency-wide.

DESIGNATION OF FOIA REQUESTER SERVICE CENTER

(a) Anticipated to be completed by November 31, 2006.

(b) As a part of the FOIA Program's transition from the Internal Auditor, the Agency shall establish that the Office of the Legal Advisor will function in part as the FOIA Requester Service Center. The FOIA Requester Center shall serve as

the first place that a FOIA requester can contact to seek information concerning the status of the person's FOIA request and appropriate information about the agency's FOIA response. The Center shall include appropriate staff to process FOIA requests, and receive and respond to inquiries from FOIA requesters. The website shall include the FOIA Requester Service Center and identify the Chief FOIA Officer, FOIA Public Liaison and their respective contact information.

WEBSITE IMPROVEMENT

(a) Although improvements are ongoing, initial improvements are anticipated to be completed by January 31, 2007.

(b) The Agency's website shall improve its FOIA informational page to be located more easily by the general public and Agency personnel. In addition, the FOIA portion of the website shall identify the Chief FOIA Officer and FOIA Officer and Public Liaison and provide their respective contact information. The FOIA guidelines will be updated to ensure there is a thorough description of FOIA procedures and exemptions.

AGENCY'S FOIA DIRECTIVE SYSTEM – UPDATE AND CLARIFICATION

(a) Anticipated to be completed by January 31, 2007.

(b) The Agency Directive pertaining to the Freedom of Information Act shall be updated so as to accurately reflect the designations of a Chief FOIA Officer and FOIA Officer and Public Liaison in the Office of the Legal Advisor. The portion designating the Internal Auditor as Chief FOIA Officer shall be omitted from the Agency's FOIA Directive.

(c) The FOIA Directive will be reviewed and updated to omit sections no longer deemed current, and to reflect any new processes deemed to be appropriate by FOIA personnel in the Office of the Legal Advisor.

FOIA TRAINING

(a) Continual as necessary

(b) The FOIA Officer shall regularly conduct searches for FOIA related trainings and material for the purpose of keeping up to date on substantive and procedural changes to the Freedom Of Information Act.

(c) The FOIA Officer shall communicate newly acquired FOIA information to the Agency or public through the website, Directive, memorandum, or email.

TIMELINESS OF RESPONSES

(a) To be implemented immediately

(b) The Agency shall strive to maintain its goal of responding to the vast majority of requests within the 20-day statutory period. In rare cases where the period for response requires an extension, the Agency shall be diligent in informing the Requester of the need to extend the time for response to a later but reasonable deadline. To reduce delays in the inter-Agency process, the prepared memorandum and website improvements described above should assist in ensuring that FOIA requests are routed centrally and expeditiously to the FOIA personnel. Should overall response times fall below a quality level, the FOIA personnel shall reinforce through email or memorandums the need for

cooperation, communication and timeliness regarding FOIA searches and responses.

MAINTAINING A MINIMAL BACKLOG

(a) To be implemented immediately

(b) Continue to maintain present backlog avoidance, or in the alternative, keep any future backlog to a low number. Devote sufficient attention, resources, time and staff to ensuring that no FOIA backlog occurs. In the rare event that a backlog does occur, sufficient attention will be devoted to processing and responding to pending requests promptly in order to keep the backlog temporary.

MAINTAINING COURTESY AND PROFESSIONALISM WITH FOIA REQUESTERS

(a) To be implemented immediately

(b) The Agency shall strive to avoid complaints and maintain professionalism and courtesy with FOIA Requesters at all times. Should a Requester have a complaint pertaining to timeliness or communications with FOIA personnel, contact shall be made with the Requester promptly in order to address and resolve the complaint.