

2017 Chief FOIA Officer Report
UNITED STATES SECTION
INTERNATIONAL BOUNDARY & WATER COMMISSION
UNITED STATES AND MEXICO (USIBWC)



Chief FOIA Officer: Rebecca A. Rizzuti, Assistant Attorney-Advisor

Implementing the presumption of openness.

The International Boundary and Water Commission, United States and Mexico, United States Section (Agency) has focused on implementing President Obama's Freedom of Information Act (FOIA) Memorandum and the Department of Justice's 2009 FOIA Guidelines by focusing on two areas of its FOIA program: (1) disclosures to the public and (2) procedures for processing FOIA requests.

Disclosures to the public.

Of the 34 requests the Agency received during Fiscal Year 2016, 14 were for hydrologic or water flow data. The Agency proactively disclosed hydrologic and water flow data on its website. These disclosures include the type of data that was requested but also includes much more than the type of data requested, including reports summarizing and compiling that type of data. The Agency routinely updates this type of data on the website to ensure the most up-to-date

information is available to the public. This data is available on the Agency website at: <https://www.ibwc.gov/home.html>. Some water data requests included gaging stations and data not controlled by the Agency. For those requests, the Agency released the data for its gaging stations and then referred the requester to the appropriate state or federal agency for the remaining gaging stations.

Of the 34 requests received during Fiscal Year 2016, three requests were for information that may have been withheld in their entirety under the deliberative process privilege. However, applying the presumption of openness, the Agency made partial disclosures by redacting two of the three (3) documents (one accident investigation report and one internal meeting minutes) and releasing redacted versions of the documents. None of the redactions were challenged by the requesters. The released information was assessed under the new standard: whether the disclosure of the information would harm an interest protected by a statutory exemption. While not required to do so, the Agency also included a “Vaughn index” of the redacted information so that the requester was aware of the nature of the redacted information.

The other data potentially protected by the deliberative process privilege was for a software program created and used by Agency personnel to internally assess flood events prior to making decisions regarding flood-protection measures. The Agency released the software with a disclaimer and waiver of liability regarding the results that the program may produce for third parties.

In responding to all requests, the Agency assesses whether a discretionary release is appropriate on a case-by-case basis. The Agency has assessed whether requesters are still interested if the FOIA office does not receive responses to follow-up inquiries to maximize the limited resources of the FOIA office. The Agency also releases information on a “rolling” basis if the request results in large volumes of information being released.

Effective System for Processing FOIAs.

The Agency has, for the last three years, used individualized tracking numbers to track requests and ensure response times are prompt, and has used email to convey that tracking number and date of request to requesters. During Fiscal Year 2016, the Agency routinely worked and corresponded with requesters via email and telephone to ensure that the request would result in the information being sought by the requester and processed in the most effective manner. The Agency continued its effective administrative procedure for processing FOIA requests in a timely manner using internal calendars, reminders, and a weekly FOIA report to internally track the Agency’s success in responding to FOIA requests in a timely manner.

In addition, in an effort to improve the search processes for FOIA requests, the FOIA office presented a training session on FOIA responsibilities throughout the Agency to all Agency personnel. This training is the first of its kind at the Agency. The training session explained the entire FOIA process from intake to final production of the responsive documents so that Agency personnel could understand their role in processing FOIA requests. The training stressed that the responsibility for responding to FOIA requests lies with *all* Agency personnel that may be called upon to search for responsive records.

The FOIA office welcomed a new assistant who will assist in processing FOIA requests. The assistant will attend the DOJ FOIA training offered in June of 2017 and has been trained on how to use the templates to respond to FOIA requests; how to process, organize and file requests; how to do the quarterly FOIA reports; and how to begin searches for responsive information.