

**2019 Chief FOIA Officer Report**

**UNITED STATES SECTION**

**INTERNATIONAL BOUNDARY & WATER COMMISSION**

**UNITED STATES AND MEXICO (USIBWC)**



**Chief FOIA Officer: Matthew Myers, Chief Counsel**

**Section 1: Steps Taken to Apply the Presumption of Openness**

***A. FOIA Leadership***

***1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?***

Yes.

***2. Please provide the name and title of your agency's Chief FOIA Officer.***

Matthew Myers, Chief Counsel for USIBWC

**B. FOIA Training**

**3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?**

No.

**4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.**

N/A

**5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

0%

**6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.**

The Agency will send at least one member of the FOIA staff for Department of Justice FOIA training during FY 2019.

**C. Outreach**

**7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.**

No.

**D. Other Initiatives**

N/A

**8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.**

The Agency has conducted training for non-FOIA personnel regarding non-FOIA personnel’s responsibility for implementing FOIA. Personnel involved in processing FOIA requests have FOIA-related performance standards in their annual performance plans.

***9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.***

In responding to all requests, the Agency continues to apply a presumption of openness. Most redactions made by the Agency to responsive documents are b (2) (redactions to internal personnel practice information); b (6) (to protect information that would constitute an invasion of personal privacy) or b (5) (to protect deliberative materials or attorney-client communication). The Agency assesses whether a discretionary release is appropriate on a case-by-case basis. To ensure requesters receive information as quickly as possible, the Agency releases information on a “rolling” basis if the request results in large volumes of information being released.

**Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

**1. For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2018 Annual FOIA Report.**

There were no requests for expedited processing.

**2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.**

N/A

**3. During the reporting period, did your agency conduct a self-assessment of its FOIA program?**

No.

**4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).**

None.

**5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.**

The Agency implements a tracking system for FOIA requests that tracks progress of the request from initiation to completion. There are not challenges associated with the way the FOIA program operates.

### **Section III: Steps Taken to Increase Proactive Disclosures**

#### **1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material**

The Agency had a high volume of FOIA requests related to one general topic (the U.S.-Mexico border wall). It began making the responses to similar FOIA requests available to all requesters seeking information on the same topic through its website. While this is not the same as the requirement to publicize the information if we have three (3) requests for the same information, the Agency proactively disclosed information related to a topic that seems to be of general interest: <https://www.ibwc.gov/Organization/Wall.html>.

In an effort to increase accessibility to critical stream level and flow data, have developed a map based data portal that is now accessible by the general public. (<https://waterdata.ibwc.gov/>) This will allow citizens easily view and export USIBWC river gaging data, commonly requested through FOIA requests. The USIBWC portal is currently undergoing beta testing and will be finalized and broadly disseminated during the 2019 calendar year. The portal has also recently been upgraded with machine-readable web services to allow automatic download by interested stakeholders. With this addition, the USIBWC has partnered with the USGS Texas Water Science Center to also disseminate USIBWC river data through USGS's data network and public data portals. Additionally, the USIBWC is in the process of updating legacy stream flow data files currently hosted on its main website through December 2017.

#### **2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).**

The FOIA staff is comprised of two people who track the types of requests. The staff identify whether there have been records that are requested and released more than three times.

#### **3. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?**

See answer to Section III.1.

#### **4. If yes, please provide examples of such improvements.**

See answer to Section III.1.

**5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.**

The USIBWC uses its website to make water data and information about topics of current interest available to the public. There are not challenges the Agency faces in this area.

**Section IV: Steps Taken to Greater Utilize Technology**

**1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.**

Yes. The Agency uses an electronic search for both emails and documents to respond to FOIA requests, in addition to conducting physical searches for records.

**2. OIP issued **guidance** in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?**

Yes.

**3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?**

Yes. <https://www.ibwc.gov/Organization/FOIA.html>.

**4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.**

N/A

**5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.**

<https://www.ibwc.gov/Organization/FOIA.html>.

**6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.**

Virtually all aspects of the FOIA program use technology – from tracking and processing requests electronically, to the searches performed for responsive material, to the use of our website to proactively post information. There are not challenges in this regard.

**Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

**A. Simple Track**

**1. Does your agency utilize a separate track for simple requests?**

No.

**2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?**

N/A

**3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.**

N/A

**4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?**

Yes.

**B. Backlogs**

**BACKLOGGED REQUESTS**

**5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?**

No.

**6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?**

No.

**7. If your agency's request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

An increase in the complexity of the requests received. We received a large number of requests for documents relevant to the U.S.-Mexico border wall. These requests typically span a large number of years and entail an extensive search of emails.

**8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018.**

14%

#### **BACKLOGGED APPEALS**

**9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?**

There were no backlogged appeals in FY 2017 or FY 2018.

**10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?**

N/A

**11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

N/A

**12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."**

N/A

### **C. Backlog Reduction Plans**

**13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?**

N/A. The agency did not have a backlog of over 1000 requests in FY 2017.

**14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?**

N/A. The agency did not have a backlog of over 1000 requests in FY 2018.

### **D. Status of Oldest Requests, Appeals, and Consultations.**

#### **OLDEST REQUESTS**

**15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?**

Yes.

**16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.**

In its 2017 report, the Agency reported 4 in Section VII.E (oldest pending perfected requests).

**17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?**

None.

**18. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.**

The Agency closely tracks the closure of its oldest pending requests and provides a weekly status report to the Agency's management.

## TEN OLDEST APPEALS

**19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?**

There were no appeals in FY 2016; one appeal in FY 2017 that was closed in FY 2017; and one appeal in FY 2018 that was closed in FY 2018.

**20. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.**

N/A

**21. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.**

N/A

## TEN OLDEST CONSULTATIONS

**22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?**

There were no consultations pending in FY 2017.

**23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.**

N/A

### **E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans**

**24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.**

There were no obstacles with the appeal and the consultations in 2018. The Agency is receiving increasingly complex requests for large volumes of documents regarding the “border wall,” creating some difficulty in responding to such voluminous requests.

**25. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.**

N/A

**26. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2018.**

N/A

## **F. Success Stories**

The Agency has, for the last four 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. The Agency administers FOIA in the spirit of cooperation and routinely corresponds with requesters via email and telephone to ensure that the Agency’s response will result in relevant information and is processed in the most effective manner. The Agency continued its effective its 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.

The Agency is participating and has established its account in the National FOIA Portal.

The FOIA office continued to operate with 2 staff members who dedicate part or their work time to processing FOIA requests. One staff member is tasked with maintaining and organizing FOIA files, using templates to respond to FOIA requests, filing quarterly reports, and gathering responsive information. The other staff member reviews responsive materials and makes redactions when appropriate, reviews responses before they are sent to requesters, makes determination on final disposition of the request, and compiles the reporting information required by DOJ with the assistance of the other staff member.