

**UNITED STATES SECTION
INTERNATIONAL BOUNDARY & WATER COMMISSION
UNITED STATES AND MEXICO (USIBWC)**



**FREEDOM OF INFORMATION ACT
ANNUAL REPORT: FISCAL YEAR 2007**

Pursuant to 5 U.S.C.A. § 552(e)(1), the following constitutes the Freedom of Information Act (FOIA) Annual Report for fiscal year 2007, submitted by the United States Section, International Boundary & Water Commission, United States and Mexico.

I. Basic Information Regarding Report

A. Any questions concerning this report, as well as requests for a copy of the report in paper form, should be addressed to the USIBWC, Attn: Eric Meza, FOIA Officer and Public Liaison, 4171 N. Mesa, Ste. C100, El Paso, TX 79902, (915) 832-4704.

B. This Annual Report will be made available, and information on how to submit a Freedom of Information Act (FOIA) request to the USIBWC is available, on the USIBWC's FOIA page at <http://www.ibwc.state.gov/Organization/FOIA.html>

II. How to Make a FOIA Request

A. Guidance on submitting a FOIA request can be found on the agency's FOIA page using the link listed above. As noted in the guidance, all FOIA requests to the USIBWC are received at the address listed on the agency's FOIA page.

B. Brief description of the agency's response-time ranges: USIBWC processed a total of 23 initial FOIA requests during fiscal year 2007 with a median response time of 19 days and an average response time of 19 days.

C. Of the 23 initial requests processed, 11 requests were granted in total. Regarding the remaining 12 requests, USIBWC either located no documents responsive to the request or some of the requests were partially granted under one of the FOIA exemptions.

III Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms: None.

B. Basic terms, expressed in common terminology.

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.

3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. Multi-track processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks.

Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.

10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.

11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).

13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by agency during current fiscal year.

1. Brief description of type(s) of information withheld under each statute.

- a) 41 U.S.C. 423: Acquisitions-related information marked as "source selection information"
- b) 22 U.S.C. 288(a): Official communications within an international organization
- c) 28 CFR 24.202: Competitive solicitation information under government control

2. Statement of whether a court has upheld the use of each statute. If so, cite example: Not applicable. (No legal challenges presented)

V. Initial FOIA/PA Access Requests

A. Number of initial requests

- 1. Number of requests pending as of end of preceding fiscal year: 0
- 2. Number of requests received during current fiscal year: 23
- 3. Number of requests processed during current fiscal year: 23

4. Number of requests pending as of end of current fiscal year: 0

B. Disposition of initial requests

1. Number of total grants: 11
2. Number of partial grants: 5
3. Number of denials: 0
 - a. Number of times each FOIA exemption used
(counting each exemption once per request)
 - (1) Exemption 1: 1
 - (2) Exemption 2: 0
 - (3) Exemption 3: 2
 - (4) Exemption 4: 0
 - (5) Exemption 5: 4
 - (6) Exemption 6: 0
 - (7) Exemption 7(A): 0
 - (8) Exemption 7(B): 0
 - (9) Exemption 7(C): 0
 - (10) Exemption 7(D): 0
 - (11) Exemption 7(E): 0
 - (12) Exemption 7(F): 0
 - (13) Exemption 8: 0
 - (14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 7
 - a. no records: 7
 - b. referrals: 0
 - c. request withdrawn: 0
 - d. fee-related reason: 0
 - e. records not reasonably described: 0
 - f. not a proper FOIA request for some other reason: 0
 - g. not an agency record: 0
 - h. duplicate request: 0
 - i. other (specify): 0

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Number of appeals

1. Number of appeals received during fiscal year: 1
2. Number of appeals processed during fiscal year: 1

B. Disposition of appeals

1. Number completely upheld: 0
2. Number partially reversed: 1

3. Number completely reversed: 0
 - a. Number of times each FOIA exemption used
(counting each exemption once per appeal)
 - (1) Exemption 1: 0
 - (2) Exemption 2: 0
 - (3) Exemption 3: 1
 - (4) Exemption 4: 0
 - (5) Exemption 5: 1
 - (6) Exemption 6: 0
 - (7) Exemption 7(A): 0
 - (8) Exemption 7(B): 0
 - (9) Exemption 7(C): 0
 - (10) Exemption 7(D): 0
 - (11) Exemption 7(E): 0
 - (12) Exemption 7(F): 0
 - (13) Exemption 8: 0
 - (14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 0
 - a. no records: 0
 - b. referrals: 0
 - c. request withdrawn: 0
 - d. fee-related reason: 0
 - e. records not reasonably described: 0
 - f. not a proper FOIA request for some other reason: 0
 - g. not an agency record: 0
 - h. duplicate request: 0
 - i. other (specify): 0

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year: 19 business days

1. Simple requests (if multiple tracks used).
 - a. number of requests processed: 22
 - b. median number of days to process: 19
2. Complex requests (specify for any and all tracks used).
 - a. number of requests processed: 0
 - b. median number of days to process: 0
3. Requests accorded expedited processing.
 - a. number of requests processed: 1
 - b. median number of days to process: 2

B. Status of pending requests

1. Number of requests pending as of end of current fiscal year: 0
2. Median number of days such requests were pending as of that date: 0

VIII. Expedited Processing

A. Number of requests accorded expedited processing

1. Number received: 1
2. Number granted: 1

IX. Costs/FOIA Staffing

A. Staffing levels

1. Number of full-time FOIA personnel: 0
2. Number of personnel with part-time or occasional FOIA duties (in total work-years): (1 FTE at .35, 1 FTE at .10) = .45
3. Total number of personnel (in work-years): .45

B. Total Costs (including staff and all resources)

1. FOIA Processing (including appeals): Approximately \$26,000
2. Litigation-related Activities (estimated): 0
3. Total Costs: Approximately \$26,000

X. Fees

- A. Total amount of fees collected by agency for processing requests: \$120.35

XI. FOIA Regulations

The USIBWC FOIA Implementing Regulation is codified at 22 CFR Part 1102. The Regulation and its subparts can presently be retrieved electronically at http://www.access.gpo.gov/nara/cfr/waisidx_07/22cfr1102_07.html

XII. Report on Executive Order 13392 Implementation.

Pursuant to Executive Order 13392, the following information constitutes a report on the USIBWC's development and implementation of its FOIA plan including

the agency's performance in meeting the milestones set forth in the FOIA plan. This section follows the format set forth by Dept. of Justice in its FOIA guidance.

A. Description of supplementation/modification of agency improvement plan.

Not Applicable.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

The USIBWC constitutes a part of the IBWC, a bi-national organization made up of a United States Section and Mexican Section. The U.S. Section of the IBWC is a relatively small agency that receives a limited amount of FOIA requests per year. In fiscal year 2007, the agency strived to assure a smooth transition from the agency's Internal Auditor implementing the FOIA function to the Office of the Legal Advisor serving as the FOIA Requester Service Center. Nine milestones were due through January of 2007, aimed at a seamless FOIA departmental transition, designations of Chief FOIA Officer and FOIA Officer-Public Liaison, designation of the FOIA Service Requester Center, FOIA website improvement, maintaining timely responses and minimizing backlog, maintaining professionalism and courtesy with requesters, updating the FOIA internal directive and completing up to date FOIA training.

Completing the transition of the Agency's FOIA Program from the Internal Auditor to the Office of the Legal Advisor: The agency accomplished a smooth transition of the FOIA Program from the Agency's Internal Auditor to the Office of the Legal Advisor in a thorough yet timely manner. Coordinating closely with the Internal Auditor and present FOIA personnel, all files, logs, requests, research, etc. were transferred and organized into a new system including the creation of an internal electronic database for better organization, tracking and retrieval. All agency personnel were informed of the change.

Designation of Chief FOIA Officer and FOIA Officer-Public Liaison: A new Chief FOIA Officer and FOIA Officer-Public Liaison were designated by November 31, 2006. Such information was posted on the website FOIA page, and a memorandum was prepared and distributed agency-wide informing of the designations.

Designation of FOIA Requester Service Center: As a part of the FOIA Program's transition from the Internal Auditor, the Agency established the Office of the Legal Advisor as functioning in part as the FOIA Requester Service Center. As established on the USIBWC FOIA page, the center reflects the appropriate staff for processing of FOIA requests and receipt and response to inquiries from FOIA requesters. The USIBWC website's home page contains a link to the FOIA Requester Service Center, identifies the Chief FOIA Officer and FOIA Officer-

Public Liaison, provides their respective contact information and provides guidance on submitting a FOIA request.

Website Improvement: The USIBWC improved its FOIA informational page and service center to be located more easily by the general public and agency personnel. Previously the FOIA page was found only by following a link to the Internal Auditor (former FOIA Officer). The USIBWC home page now has a “Freedom of Information Act” introductory link that goes to the FOIA Requester Service Center. Contact information for the newly designated FOIA personnel has been updated as well as the directions on submitting a request. The FOIA Improvement Plan was also made available on the USIBWC website’s FOIA page. Website improvement remains a continual goal.

Timeliness of Responses: The FOIA website improvements described above, internal communication and coordination with the newly designated service center have assisted in ensuring that FOIA requests are responded to in a timely manner. Although the agency is largely composed of field offices in various cities, such improvements have ensured that requests are routed centrally and expeditiously to FOIA personnel in the requester service center. The agency’s goal was to be consistent and timely with responses. The agency averaged a response time of 19 days and will continue to strive to lower the number of days required.

Maintaining of minimal backlog: Partly to due the size of the agency and steady but manageable flow of requests, the USIBWC has been successful in timely processing requests submitted to the agency. Rarely has there been a backlog of one or more requests, and in such cases, the agency has acted quickly to assure that the backlog is temporary.

Maintaining professionalism and courtesy with FOIA Requesters: The USIBWC has been successful in assuring that requesters are provided timely and courteous service. The agency has strived to notify all requesters that their requests were received and are being processed in a timely manner. In the rare event that a requester is unsure of the process of submitting requests, the FOIA Officer/Public Liaison is and has been readily available to assist.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)

FOIA Training:

- (1) 2006 FOIA Improvement Plan;
- (2) FOIA training to be completed during fiscal year 2007;
- (3) Not applicable.
- (4) The FOIA Officer will strive to routinely complete annual FOIA trainings by attending those regularly scheduled at a particular time each year. In addition,

the FOIA Officer shall routinely conduct searches for trainings that alternatively may be completed online should scheduling be an issue.

Internal FOIA Directive Update:

- (1) 2006 FOIA Improvement Plan;
 - (2) Updating of Internal FOIA Directive by January 31, 2007;
 - (3) Not applicable.
 - (4) Although the USIBWC website's FOIA page reflects the newly designated FOIA personnel, and is easily accessible and frequently referenced by requesters and USIBWC employees alike, the agency's internal directives at times serve as a reference point for the agency. In coordination with agency's information management division, the agency will strive to update the FOIA internal directive by March 31, 2008.
- D. Additional narrative statement regarding other executive order-related activities (optional). It has been determined that the USIBWC FOIA regulations require updating. In fiscal year 2008, the agency will take the necessary steps to bring its FOIA regulations up to date.
- E. Concise description of FOIA Exemptions (From the Department of Justice 2006 Annual Report): "The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual; (8) information relating to the supervision of financial institutions; and (9) geological information on wells."
- F. Additional Statistics
1. Ten Oldest Pending FOIA Requests as of January 1, 2008. USIBWC had no pending FOIA Requests as of January 1, 2008
 2. Consultations

a.) Number of Consultations Received, Processed, and Pending: During fiscal year 2007, USIBWC received no consultations from other agencies, has thus processed no consultation requests, and has no consultation requests pending as of the date of this report.

b.) Ten Oldest Pending Consultations Received From Other Agencies: As of January 1, 2008, USIBWC has no pending consultation requests from other agencies.

G. Agency Improvement Plan.

The USIBWC FOIA Improvement plan can be viewed at the following link:
http://www.ibwc.state.gov/Files/FOIA_13392_Imp_Plan.pdf