

**2025 Chief FOIA Officer Report**

**UNITED STATES SECTION**

**INTERNATIONAL BOUNDARY & WATER COMMISSION**

**UNITED STATES AND MEXICO (USIBWC)**



## Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General’s 2022 FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

### A. Leadership Support for FOIA

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. See 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at or above this level?

The USIBWC does not have a structure with Assistant Secretary or Deputy Secretary-level positions. The Chief FOIA Officer is one of three attorneys for the Agency, and the Legal Division reports directly to the head of the Agency.

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

Rebecca A. Rizzuti, Deputy Chief Counsel

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

The Agency has recently drafted a new internal directive to require employee cooperation with FOIA searches and responses. We anticipate publishing it in 2025.

### B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

No.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. If your agency tracks Glomar responses, please provide:

- the number of times your agency issued a full or partial *Glomar* response during Fiscal Year (FY) 2024 (separate full and partial if possible);

None.

- the number of times a *Glomar* response was issued by exemption during FY 2024 (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

None.

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

The Agency's position is that all records are available to the public unless there is a specific reason to withhold it.

## **Section II: Ensuring Fair and Effective FOIA Administration**

The Attorney General's 2022 FOIA Guidelines provide that "[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

### **A. FOIA Training**

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

FOIA Training has been incorporated into the annual training session provided to all supervisors and managers in the Agency.

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

Yes.

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

OIP Best Practices Workshop webinar.

4. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

33%

5. 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 ensure that personnel involved in responding to FOIA attend one of DOJ’s online sessions during 2025.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency’s FOIA resources, obligations and expectations during the FOIA process?

FOIA Training has been incorporated into the annual training session provided to all supervisors and managers in the Agency. The Agency is currently revising its internal directives to affirmatively require all employees to cooperate with searches for responsive documents.

## **B. Outreach**

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue and, if applicable, any specific examples.

Yes. The FOIA staff requests if FOIAs can be narrowed by geographic reach or time if a request is broad and does not include such delineation.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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.

9. 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 Fiscal Year 2024 (please provide a total number or an estimate of the number for the agency overall).

None.

### **C. Other Initiatives**

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes. In July of 2024, the FOIA Office awarded a contract assist with clearing the backlog of Agency FOIAs. Once the contractor has finished clearing the backlog, the Agency will contract for a vendor to assist in processing current and incoming FOIAs.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

We do not use data or processing metrics other than the data required for the Annual FOIA report.

12. The federal FOIA Advisory Committee, comprised of agency representatives and members of the public, was created to foster dialogue between agencies and the requester community, solicit public comments, and develop recommendations for improving FOIA administration. Since 2020, the FOIA Advisory Committee has issued a number of recommendations. Please answer the below questions:

- Is your agency familiar with the FOIA Advisory Committee and its recommendations?

No.

- Has your agency implemented any of its recommendations or found them to be helpful? If so, which ones?

N/A

13. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

The Agency recently hired a contractor to assist its limited personnel with the FOIA request backlog.

### **Section III: Proactive Disclosures**

The Attorney General's 2022 FOIA Guidelines emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request"

and reiterate that agencies should post records “in the most useful, searchable, and open formats possible.”

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Because the FOIA office is small, the personnel can track if more than three requests are made for similar documents and ensure those are posted on the Agency’s website.

2. Does your agency post logs of its FOIA requests?

- If so, what information is contained in the logs?
- Are they posted in CSV format? If not, what format are they posted in?
- Please provide a link to the page where any FOIA logs are posted. If applicable, please provide component links.

We have not posted logs of our FOIA requests, but we have sent out our FOIA logs to a requester who specifically requested it.

3. Provide examples of any material (with links) that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D).

The Agency has proactive disclosures on its website, such as information on water data reports and studies about its reservoirs. It also has a reading room where it posts frequently requested records.

4. Please provide a link (or component links, if applicable) where your agency routinely posts its frequently requested records.

[Water Data - IBWC](#)

[FOIA Electronic Reading Room - IBWC](#)

5. 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? If yes, please provide examples of such improvements, such as steps taken to post information in open and machine readable formats. If not taking steps to make posted information more useful, please explain why.

The Agency updated its website last year to make it more useful and the interface is easier to navigate. For example, the most frequently accessed information (such as water data, information on river water flows, press releases, reports, gaging station data) is all on the home page available through thumbnails. In the previous website, a user had to go through drop-down menus and navigate the website to get to this data. We also added a “news flashes” function with recent hot-topics and press releases, fact sheets about our

agency and various issues at our regional offices, etc. The home page also has a link directly to our FOIA home page with a form to submit FOIA requests and instructions on how to submit FOIA requests, our FOIA staff contact information, and other instructions and information about our FOIA program.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

Yes, the FOIA Office must collaborate with IT to post frequently requested records and manage the FOIA website.

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

The Agency's divisions post reports, research, and data on the website continuously. In addition, the Agency has a robust "news & press releases" and "news flashes" portion of its website to inform the public of noteworthy events and information. Also, the Agency has an "X" account where it frequently posts updates about public issues at critical infrastructure

## **Section IV: Steps Take to Greater Utilize Technology**

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's 2022 FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

The Legal Affairs Office is planning to acquire new software (Everlaw) that will assist it in processing FOIAs and discovery during litigation. It also contracted a vendor to assist with clearing the FOIA backlog it has.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

See answer above.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

No.

4. 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.

5. Did all four of your agency's quarterly reports for Fiscal Year 2024 appear on FOIA.gov?

Yes.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2025.

Not applicable.

7. Please provide the link to this posting for your agency's Fiscal Year 2023 Annual FOIA Report and, if available, for your agency's Fiscal Year 2024 Annual FOIA Report.

FY23: [https://www.ibwc.gov/wp-content/uploads/2024/02/USIBWC-FY23-Final.humanreadableFINAL\\_FORMATTED\\_IE.pdf](https://www.ibwc.gov/wp-content/uploads/2024/02/USIBWC-FY23-Final.humanreadableFINAL_FORMATTED_IE.pdf)

FY24: <https://www.ibwc.gov/wp-content/uploads/2025/01/USIBWC-FY24-Final-20250103.pdf>

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes.

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

See answers above.

## **Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs**

The Attorney General's 2022 FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please



answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

## **A. Remove Barriers to Access**

1. Has your agency established alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process?

No.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

Not applicable.

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

See answer to Sections III and IV.

## **B. Timeliness**

4. For Fiscal Year 2024, 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 2024 Annual FOIA Report.

Two.

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2024 Annual FOIA Report, 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.

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

No.

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2024?

Not applicable.

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

Yes.

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2024 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

92.31%

10. 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?

No.

## **C. Backlogs**

### **Backlogged Requests**

11. If your agency had a backlog of requests at the close of Fiscal Year 2024, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2023?

No.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2024 than it did during Fiscal Year 2023?

No.

13. If your agency's request backlog increased during Fiscal Year 2024, 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 number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

In the latter part of fiscal year 2023 and fiscal year 2024, the Agency saw an increased number of requests from reporters seeking large volumes of documents because the Agency has been involved in high-profile projects or litigation. In addition, the additional staffer that was assigned to FOIA was re-assigned to Ethics, and the FOIA Office had to seek additional assistance from a vendor to help with backlogged requests.

14. 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 2024. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

139.24%

### **Backlogged Appeals**

15. If your agency had a backlog of appeals at the close of Fiscal Year 2024, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2023?

Not applicable.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2024 than it did during Fiscal Year 2023?

Yes.

17. If your agency's appeal backlog increased during Fiscal Year 2024, 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 number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

Not applicable.

18. 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 2024. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This

number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2024 and/or has no appeal backlog, please answer with "N/A."

N/A

## **D. Backlog Reduction Plans**

19. In the 2024 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2023 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 2024?

Not applicable.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2024, please explain your agency's plan to reduce this backlog during Fiscal Year 2025.

Not applicable.

## **E. Reducing the Age of Requests, Appeals, and Consultations**

### **Ten Oldest Requests**

21. In Fiscal Year 2024, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2023 Annual FOIA Report?

No.

22. 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 2023 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Three.

23. 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 is sending out "still interested" emails to older requests and has hired a contractor to help clear the backlog.

### **Ten Oldest Appeals**

24. In Fiscal Year 2024, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2023 Annual FOIA Report?

Not applicable.

25. 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 2023 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable

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

Not applicable.

### **Ten Oldest Consultations**

27. In Fiscal Year 2024, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2023 Annual FOIA Report?

Not applicable.

28. 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 2023 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

### **Additional Information Regarding Ten Oldest**

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2025.

The Agency has awarded a contract to clear its backlog during 2025.

### **F. Additional Information about FOIA Processing**

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate:

- The number and nature of requests subject to litigation
- Common causes leading to litigation
- Any other information to illustrate the impact of litigation on your overall FOIA administration

Yes. There were two FOIAs from the same reporter that were part of one lawsuit. One request was for a large number of documents and the reporter would not narrow the request. The second request was for a report that was a facility assessment and deliberative. The report was ultimately released during litigation in a redacted version. During litigation, the reporter narrowed the parameters of the large-volume request and responsive records were more easily identified, processed, and released as part of a negotiated settlement.

The impact of the litigation was that it was time-consuming for FOIA staff and the Agency paid a portion of the Plaintiff's attorney fees. Nothing in the Agency's overall FOIA administration changed.