



EXPORT-IMPORT BANK OF THE UNITED STATES
Chief FOIA Officer's Report
David Sena, Chief Financial Officer and Chief FOIA Officer
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The Export Import Bank of the United States (Ex-Im Bank or Agency) is the official export credit agency of the United States. Our mission is to ensure that U.S. companies, large and small, have access to the financing they need to turn export opportunities into sales. Keeping with our mission, the agency has a strong interest in ensuring that accurate and relevant information about its activities is made available or is easily accessible by the public. Available via the Ex-Im Bank website, for instance, the public can access Quarterly Deal Data Information, Annual Reports, FOIA Logs, Country Limitation Schedule, Minutes of the Board of Directors and Credit Committee, Competitiveness Reports to Congress.

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA Training or conferences during the reporting period such as that provided by the Department of Justice?

Yes. In 2015 as in previous years, Ex-Im Bank's FOIA Team attended and participated in such informational gatherings as the Department of Justice FOIA Best Practices Seminar, the Freedom of Information Act for Attorneys and Access Professionals Seminar and American Society of Access Professionals' (ASAP) FOIA seminars, as well as the Annual Users' Group Conference, which describes updates to the Bank's automated FOIA request tracking and processing system.

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

In 2015, all members (100%) of the Ex-Im Bank's FOIA Team attended and participated in FOIA training.

3. 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 period.

Not applicable.

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary releases?

Yes, in order to maximize discretionary releases, the Headquarters FOIA Team consults frequently with the Bank components that created/generated the responsive records, in order to discuss the records' significance and determine any actual harm in disclosure. Ex-Im Bank's FOIA Analyst reviews records that are responsive to a FOIA request and determines if the records contain information exempt under FOIA. The FOIA Analyst then applies the foreseeable harm standard to determine if any harm would result in the release of the records. The foreseeable harm standard is frequently used with any material that was previously withheld under Exemption (b)(5). An OGC attorney reviews all records prior to release and the Chief FOIA Officer makes the final determination regarding the disclosure of any records. For the Office of Inspector General records, the same standards are applied by OIG staff and the final determination regarding disclosure is made by the Inspector General.

5. During the reporting period, did your agency make any discretionary releases of information?

Yes.

6. What exemption(s) would have covered the material released as a matter of discretion?

In 2015, Ex-Im Bank continued to exercise greater discretion and further minimized the application of FOIA Exemption (b)(5), which encompasses the deliberative process privilege.

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year. .

Ex-Im Bank receives applications for participation in its loan, guarantee and insurance programs. Upon receipt of an application and during the Bank's due diligence and decision-making processes, a significant amount of E-Mail correspondence is traditionally generated. This correspondence contains candid discussion, comments and recommendations by Bank staff. Frequently, Bank staff attorneys are included in this correspondence, providing legal advice and recommendations to staff. This dialog is especially sensitive because it often contains a high degree of business confidentiality, such as financial information that is being submitted to the Bank as part of the application process. In 2015, Ex-Im Bank continued to receive FOIA requests whose responses involved the review of many such documents. Although these records had typically been withheld in full or in part in accordance with Exemption (b)(5), under both the deliberative process *and* the attorney-client privileges, Ex-Im Bank continued to apply the presumption of openness by releasing greater portions of these and other such documents.

8. If your Agency was not able to make any discretionary releases of information, please explain why.

Not applicable.

Other Initiatives:

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

The FOIA Team continues to consult more frequently with the Bank components that created/generated the records, in order to discuss the records' significance and determine any actual harm in disclosure. The agency continues to release documents on the Ex-Im Bank website to provide public access to Deal Data Information, Annual Reports, FOIA Logs, and Country Limitation Schedule, Minutes of the Board of Directors and Credit Committee, Competitiveness Reports to Congress. The presumption of openness is fundamental to the Bank's FOIA practice.

Section II: Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests

The Bank's system for responding to requests has been in place for a number of years and has proven to be quite effective. Ex-Im Bank receives most requests electronically, either via E-Mail to a dedicated FOIA mailbox or through a fillable form on the Bank's website. In 2015, the Bank launched the PAL Portal, which allows requesters to submit a request electronically and to check the status of their FOIA request. Because Ex-Im Bank is a

small Agency and its FOIA office is centralized, the Headquarters is the only component within the Bank which receives FOIA requests. Each member of the Bank's FOIA Team receives these requests via E-Mail; this ensures that the initial request is seen by at least two team members. The FOIA Team logs in any requests that are received via direct mail or email and a tracking number is assigned and immediately provided to the requester via direct mail or E-mail. Requests submitted through the PAL Portal are logged automatically and assigned a tracking number and immediately provided to the requester via E-mail. The FOIA Team analyzes each request to determine whether the request contains sufficient information to clearly identify the records in question. If the requested records are not clearly identifiable, the FOIA Public Liaison contacts the requester via telephone or E-mail to seek clarification. If the request is overly broad, the Liaison works with the requester to determine their specific need so the scope of the request can be clearly defined and the request can be processed in the most expeditious manner possible.

Ex-Im Bank utilizes a FOIA-specific software package, which allows us to more efficiently track and process requests in a timelier manner. All members of the Bank's centralized FOIA Team have access to this software. Members of the Bank's FOIA and IT Teams regularly consult with the software vendor's IT staff in order to identify, discuss and affect updates and improvements. Also, the FOIA Officer reports weekly to the Chairman of the Bank.

The FOIA Team meets regularly to review the status of outstanding requests and discuss any issues as they arise, and to set and adjust goals if necessary.

Processing Procedures:

1. For FY 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing?

Ex-Im received one request for expedited processing in FY 2015. Ex-Im reported 1.25 days for adjudicating this request for expedited processing.

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

Not applicable.

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.

Ex-Im Bank has not sent a still interested inquiry, since OIP issued the new guidance. Prior to the issuance of the guidance, the bank had two occasions where a still interested inquiry was sent. In both occasions, the still interested inquiry was issued after the FOIA Analyst had reached out to the requester on two different occasions and received no response from the requester. The requests were closed after ten days, but re-opened and processed, once the requester contacted the FOIA Office. Any future still interested letters sent by Ex-Im Bank will be in accordance with OIP guidance.

Requester Services:

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes?

Ex-Im Bank has not taken any steps to strengthen these services, as we have a low demand for these services. The FOIA Public Liaisons works with the requester to answer any questions regarding the FOIA process or address specific questions pertaining to their request. Also, the FOIA Public Liaisons works closely with the requester to resolve any disputes that may arise. In addition, requesters can access real time information regarding their request through the PAL portal on the website.

Other Initiatives:

5. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them.

The FOIA staff continuously assesses our processes to ensure that the FOIA system operates efficiently and effectively. For example, the FOIA Office sought assistance from the Agency's Office of the Chief Information Officer to conduct more centralized searches for e-mails responsive to FOIA request, rather than relying on individual employees to search their own documents. Also, The Bank's FOIA and IT Teams regularly consult with the software vendor's IT staff to further enhance and fine-tune its FOIA software-processing package to Ex-Im Bank's specific needs. Additionally, more internal documents are being filed electronically at the time they are created, making it faster and easier to conduct searches for these documents.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Describe your agency's process or system of identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA.

The FOIA Team reviews recent disclosure trends to identify requests or information that may be of interest to the public, and discusses placing that information on our FOIA Website. Also, Ex-Im Bank continues to update the downloadable statistical data relating to Bank transactions, which is available on the Website.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

Yes, the FOIA Team consults with Bank components that created/generated the records to discuss the records' significance and determine any actual harm in disclosure and placing that information on our FOIA Website.

3. When making proactive disclosure of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

No.

4. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

No, Ex-Im Bank has not encountered significant challenges when posting proactive disclosures on its FOIA website.

5. If so, please briefly explain those challenges.

Not applicable.

6. Provide examples of material that your agency has proactively disclosed during the past report year, including links to the posted material?

Materials Ex-Im Bank has proactively disclosed and posted on the FOIA Web site include, FOIA Annual Reports, Ex-Im Bank Annual Reports, the FOIA Log, Country Limitation Schedule, Minutes of the Board of Directors and Credit Committee, Competitiveness Report to Congress and the Chief FOIA Officer Reports. In addition, Ex-Im Bank proactively disclosed a large amount of statistical data related to Bank transactions on our FOIA Web site. To maximize use by the public, the FOIA

Application Deal Information files are downloadable and are posted in CSV format for the users' convenience; users may create custom reports using these files. Also included with each data file is a "key" that explains each column heading in every data file. These files are available on Ex-Im Bank's Web site at <http://www.exim.gov/open-government-directive>.

7. Did your agency use any means of publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts?

No.

Other Initiatives:

8. If there are any other steps your agency has taken to increase proactive disclosures, please describe them.

The Ex-Im Bank Library identifies and makes publicly available certain historical documents. These materials are available at: <http://www.digitalarchives.exim.gov/cdm/>. Also, Ex-Im Bank uses social media tools such as YouTube, Twitter and LinkedIn to distribute information about the Bank.

Section IV: Steps Taken to Greater Utilize Technology

Making Material Posted Online More Useful:

1. 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?

Yes.

2. If yes, please provide examples of such improvements?

Ex-Im Bank has updated its website and FOIA page to make information easily accessible to the public and more user friendly. Content on the website is provided in HTML, PDF, XML and CSV formats. Also, the Bank continues to update the downloadable statistical data relating to Bank transactions placed on our Web site. Ex-Im Bank's FOIA Web site provides a feedback button for public comments to determine ways in which the presentation of the data and content could be improved.

Other Initiatives:

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

Yes.

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 2016.

Not applicable.

5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

Yes, to communicate with requesters the Ex-IM Bank FOIA Team utilizes e-mail or contacts the requester directly via telephone.

6. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means?

Not applicable.

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

Simple Track Requests:

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

Yes.

2. If so, for your agency overall, for Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

No.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

In 2015, 54 percent of the requests processed were placed in the simple track.

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

Not applicable.

Backlogged Requests:

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with Fiscal Year 2014?

No. The backlog increased by 2 requests, from 31 to 33.

6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

In 2014, Ex-Im Bank reported a backlog of 31 cases. In 2015, the Bank reported a backlog of 33 cases. In 2015, Ex-Im Bank initiated an effort to clean-up of the FOIA backlog. This effort resulted in the closure of 28 backlogged cases, which included the 14 oldest cases, with the oldest dating back to fiscal year 2011. In 2015, the FOIA office also provided interim responses to 13 backlogged requests. The 2015, backlog dates back to fiscal year 2014. In addition, the number of requested received increased by 40% in FY 2015 and many of these requests are for voluminous e-mail results that will take a significant amount of time to process. As a result, the number of backlog cases increased.

7. If you had a request backlog please report the percentage of requests that makes up the backlog out of the total number of requests received by your agency in Fiscal Year 2015?

In, 2015, 33 percent of the requests received make up the backlog.

Backlogged Appeals:

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

Ex-Im Bank reported one backlogged appeal in FY 2014. The backlog decreased from 1 to 0. Ex-Im Bank did not have a backlog of appeals at the close of fiscal year 2015.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog?

Not applicable.

10. 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 2015. If you agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with N/A.

Not applicable.

Status of the Ten Oldest Request, Appeals, and Consultations

Ten Oldest Requests:

11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reporting pending in your Fiscal Year 2014 Annual FOIA Report?

Yes.

12. 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 2014 Annual Report.

Not applicable.

13. Of the request 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?

The Agency did not close any of the ten oldest requests because they were withdrawn by the requester.

Ten Oldest Appeals:

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in the Fiscal Year 2014 Annual FOIA Report?

Yes.

15. 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 2014 Annual FOIA Report. If you had less than ten oldest appeals to close, please indicate that.

In 2015, Ex-Im Bank closed its one oldest appeal.

Ten Oldest Consultations:

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Ex-Im Bank did not have any consultations pending at the end of FY 2014.

17. 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 2014 Annual Report. If you had less than ten total oldest consultations to close, please indicate that.

Ex-Im did not have any consultations to close in FY 2014.

Additional Information on Ten Oldest Requests, Appeals, and Consultations and Plans:

18. Briefly explain any obstacles your agency faced in closing its ten oldest request, appeals, and consultations from Fiscal Year 2014.

The ten oldest requests require the search for and review of complex documents from multiple Divisions within the Bank. These FOIA requests include E-mail correspondence regarding transactions and the Bank's due diligence and decision-making processes. The search and review of the e-mail correspondence is complex due to their voluminous nature and content. Also, in a couple of these requests it was necessary to employ the submitter notice process or to consult with other agencies regarding documents that originated with those agencies.

19. 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.

Not applicable.

20. 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 2016.

Not applicable.

Interim Responses:

21. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes.

22. If your agency had a backlog in Fiscal Year 2015, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

13 of Ex-Im Bank's backlogged FOIA requests have received substantive interim responses.

Use of FOIA's Law Enforcement "Exclusions"

1. Did your agency invoke a statutory exclusion, 5 U.S.C § 552(c)(1), (2), (3), during Fiscal Year 2015?

No.

2. If so, please provide the total number of times exclusions were invoked.

Not applicable; no exclusions were invoked.

Spotlight on Success:

The Export Import Bank continues to show its commitment to the principles of Open Government. The FOIA Office redirected staff to process the backlogged request. The Bank increased the number of FTEs from one to two and hired two contractors to assist in the reduction effort, as a result FOIA professionals were able to close the 14 oldest pending FOIA request. The oldest requests were originally received in 2011. Also, Ex-Im closed 101 FOIA cases and six appeals in FY 2015.

Ex-Im Bank added the PAL portal to its website, which allows requesters to create a login to submit and check the status of their request. Also, in Fiscal Year 2015, 100% of Ex-Im FOIA professionals attended substantive FOIA training.