
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

Ex-Im Bank's FOIA Team continues to apply the presumption of openness by utilizing the "Foreseeable Harm Standard" whenever possible when reviewing documents for FOIA request, and has made many discretionary releases of material that would previously have been withheld under FOIA Exemption (b)(5). In order to maximize discretionary releases, Ex-Im Bank's FOIA Specialists meet frequently with staff attorneys to review and discuss pending request whose responsive documents include material that was previously withheld under Exemption (b)(5). Ex-Im Bank is moving forward with its plans to update its FOIA regulations in the year ahead and will incorporate the "presumption of openness" principle into the new version.

FOIA Training:

1. Did you agency conduct FOIA training during the reporting period for FOIA professionals?

Yes. In 2014, Ex-Im Bank's FOIA Public Liaison in conjunction with Ex-Im Bank's Office of Inspector General, Legal Affairs and General Counsel and the Office of Information Policy conducted FOIA training to staff. This training discussed types of records covered under the FOIA and records staff is required to produce in response to a FOIA request, Attorney General Holder's FOIA Guidelines, Ex-Im Bank's FOIA and Appeals Process, and reviewed FOIA Exemptions. Significantly, this training also explained that FOIA staff would be looking at specific types of documents with an eye towards making more discretionary releases. Ex-Im Bank's FOIA Team plans to conduct more in-depth training of this nature in 2015.

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

Yes. In 2014 as in previous years, Ex-Im Bank's FOIA Team attended and participated in such informational gatherings as DOJ Updates and American Society of Access Professionals' (ASAP) FOIA Training 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 2014, all members (100%) of the Ex-Im Bank's FOIA Team attended and participated in FOIA training.

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Provide the status of your agency's implementation of this plan.

Ex-Im Bank successfully, implemented its plan to ensure that FOIA professionals have substantive FOIA training. All FOIA professionals attended training provided by DOJ and other training offered by ASAP. Also, Ex-Im Bank succeeded in conducting an in-house FOIA training for FOIA and non-FOIA staff.

Discretionary Releases:

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

In order to maximize discretionary releases, Ex-Im Bank's FOIA Specialist meet frequently with staff attorneys to review and discuss pending requests whose responsive documents include material that was previously withheld under Exemption (b)(5). And, the FOIA Team continues to consult more frequently with the Bank components that created/generated the records in question, in order to discuss the records' significance and determine any actual harm in disclosure. Ex-Im Bank is moving forward with its plans to update FOIA regulations in the year ahead and will incorporate the "presumption of openness" principle into the new version.

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

Yes.

6. What exemptions would have covered the information that was released as a matter of discretion?

In 2014, Ex-Im Bank continued to exercise greater discretion and further minimized the application of FOIA Exemption (b)(5), which encompasses the deliberative process privilege and is the second most common Exemption the Bank considers when processing FOIA requests.

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

When Ex-Im Bank receives applications for participation in its loan, guarantee and insurance programs, a great deal of E-Mail correspondence is traditionally generated as each potential transaction makes its way through the Bank's due diligence and decision-making processes. This correspondence contains candid discussion, comments and recommendations by Bank staff. Often, Bank staff attorneys are included in this correspondence, providing legal advice and recommendations to staff processing the applications. This dialog is especially sensitive because it often addresses matters of a high degree of business confidentiality, such as financial information that is being submitted to the Bank as part of the application process. In 2014, 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.

In order to maximize discretionary releases, Ex-Im Bank's FOIA Specialists meet frequently with staff attorneys to review and discuss pending requests whose responsive documents include material that was previously withheld under Exemption (b)(5). And, the FOIA Team continues to consult more frequently with the Bank components that created/generated the records in question, in order to discuss the records' significance and determine any actual harm in disclosure. Ex-Im Bank is moving forward with its plans to update its FOIA regulations in the year ahead and will incorporate the "presumption of openness" principle into the new version.

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. 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 request. 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 each request and a tracking number is assigned 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 process to more efficiently track request and process request in 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 software vendor's IT staff in order to identify, discuss and affect updates and improvements.

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

Processing Procedures:

1. For FY 2014, 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 2014. Ex-Im reported 26 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?

Ex-Im received one request for expedited processing in FY 2014. Generally, Ex-Im Bank adjudicates request for expedited treatment in ten calendar days or fewer; however, 26 days were required to adjudicate this request, as we were working with the requester to

obtain the information necessary to support the request for expedited treatment. Ex-Im Bank will continue to improve its internal process to ensure that future requests for expedited processing are adjudicated within ten calendar days or less.

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Yes.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester?

Yes, we provide a breakdown of fees for search, review and duplication to the FOIA requester.

5. If estimated fees are particularly high, does your agency provide an explanation for the estimate to the requester?

Yes.

Other Initiatives:

6. 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.

Ex-Im Bank's Chief FOIA Officer has taken the initiative to create and implement a system that will make document searches more expeditious and efficient, which will allow for timelier processing of FOIA requests. Specifically, staff requested to search for documents will be required to either complete searches or provide records or a status report within a specified time frame. 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. Does your agency have a distinct process or system in place to identify records for proactive disclosures? If so, please describe your agency's process or system?

Yes, The FOIA Team meets at least quarterly to review recent disclosures, identify request and disclosure trends as well as information that may be of interest to the public, on and discusses placing that information our FOIA Website. And, Ex-Im Bank continues to update quarterly the downloadable statistical data relating to Bank transactions placed on our Website.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? 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. Describe your agency's process or system for identifying "frequently requested" records that should be posted online?

The FOIA Team meets quarterly to review recent disclosures, identify request and disclosure trends as well as information that may be of interest to the public, and discusses placing that information on our FOIA Website.

4. Provide examples of material that your agency has proactively disclosed during the past report year?

Ex-Im Bank proactively disclosed a large amount of statistical data related to Bank transactions on our FOIA Web site. These data files contain information on participants in the transactions, as well as on the transactions themselves, for the past six years, and are updated quarterly. To maximize use by the public, the 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/index.cfm#downdata>.

Other Initiatives:

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

Ex-Im Bank continues to update quarterly 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.

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?

To maximize use by the public, the data available on the Ex-Im Bank's website is downloadable and available in CSV format for the users' convenience; users may create custom reports using these files. Also, the FOIA website provides a feedback button for public comments on ways in which the presentation of the data and content could be improved.

3. 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.

4. If so, please briefly explain what those challenges are.

Not applicable.

Other Initiatives:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

No.

6. 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 2015.

Ex-Im Bank believed that all four quarterly reports for Fiscal Year 2014, were provided according to DOJ regulation, but was recently notified by DOJ that only the fourth quarter report was successfully posted with the information appearing on FOIA.gov. The FOIA office will work closely with its IT Team to ensure that the all four quarterly reports are posted successfully in 2015.

7. 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.

8. 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 2014, 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 2014 that were placed in your simple track.

In 2014, 56 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 2014, did that backlog decrease as compared with Fiscal Year 2013?

The backlog decreased by 1 request, from 32 to 31.

6. 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 2014?

In, 2014, 52 percent of the request received make up the backlog.

Backlogged Appeals:

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

The backlog of appeals remained the same (one backlogged appeal).

7.2. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

No.

7.3. Was the lack of reduction in the appeal backlog caused by a loss of staff?

Yes, Ex-Im Bank's attorneys who review FOIA requests and any appeals also work on other, non-FOIA-related assignments. Between that and the staffing shortage, priorities often fluctuated.

7.4. Was the lack of reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

No.

8. 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 2014.

In, 2014, out of the total number of appeals received by the Agency, 50 percent make up the appeal backlog. Ex-Im Bank received two appeals during the fiscal year and currently, one appeal remains backlogged.

Status of the Ten Oldest Request, Appeals, and Consultations

Ten Oldest Requests:

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reporting pending in your Fiscal Year 2013 Annual FOIA Report?

No.

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year.

In 2014, the Agency closed four of the ten oldest requests that were pending in 2013.

11. 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 request because the request was withdrawn by the requester.

Ten Oldest Appeals:

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in the Fiscal Year 2013 Annual FOIA Report?

Yes.

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year.

Not applicable.

Ten Oldest Consultations:

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Ex-Im Bank did not have any consultations pending at the end of FY 2013.

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year.

Not applicable.

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

16. Briefly explain any obstacles your agency faced in closing its ten oldest request, appeals, and consultations from Fiscal Year 2013.

The ten oldest requests require the search for and review of voluminous documents from multiple Divisions within the Bank. In addition to documents, these FOIA request, 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, Ex-Im Bank's attorneys who review FOIA requests and any appeals also work on other, non-FOIA-related assignments. Between that and the staffing shortage, priorities often fluctuated.

17. 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.

18. 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 2015.

Ex-IM Bank will close out the remaining of the ten oldest FOIA request by continuing to review documents and releasing them on a rolling basis. Ex-Im Bank's Legal Division, which processes all FOIA appeals, will prioritize the one appeal remaining from FY 2014.

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 2014, 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.

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

Use of FOIA's Law Enforcement "Exclusions"

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.

If, so, what was the total number of times exclusions were invoked?

Not applicable; no exclusions were invoked.

