

EXXIM

**EXPORT-IMPORT BANK
OF THE UNITED STATES**

Reducing Risk. Unleashing Opportunity.

*Chief FOIA
Officer Report
March 2020*

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Chief FOIA Officer Report
Fiscal Year 2020

Lisa V. Terry, Chief FOIA Officer

March 2, 2020

The Export-Import Bank of the United States (“EXIM” or “Agency”) is the official export credit agency of the United States. EXIM’s mission is to support American jobs by facilitating exports. It seeks to accomplish this mission by ensuring that U.S. companies, large and small, have access to the financing needed to turn export opportunities into sales. Keeping with our mission, the Agency has a strong commitment to ensuring that accurate and relevant information about its activities is made available or is easily accessible by the public. Available via the EXIM website, the public can access Quarterly Deal Data Information, Annual Reports, FOIA Logs, Country Limitation Schedule, Minutes of the Board of Directors and Congressional Budget Justification Report.

Section I: 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 Senior or equivalent level. Is your agency’s Chief FOIA Officer at this level?*

Yes.

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

Ms. Lisa V. Terry
Senior Vice President and Chief Ethics Officer

B. FOIA Training:

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

Yes.

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

In 2019, EXIM's FOIA Team attended the Department of Justice Continuing FOIA Education, the Freedom of Information Act for Attorneys and Access Professionals Seminar. Topics discussed include Proactive Disclosures, Request Processing, Appeals, Fees and changes to the FOIA.

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?*

In 2019, all members (100%) of the EXIM's FOIA Team attended and participated in FOIA training.

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 period.*

Not applicable.

C. Other Outreach:

7. *Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding the Administration of FOIA?*

No, FOIA professionals did not engage in any outreach this fiscal year. However, we did maintain an open dialogue with requesters to discuss any aspect of their requests and to answer any questions.

D. Other Initiatives:

8. Describe any efforts your agency has taken to inform non-FOIA professionals of their obligations under the FOIA?

EXIM employees are informed of their FOIA obligation as a part of EXIM's "On Boarding" process. In addition, the FOIA Office routinely meets with components within the Agency to discuss different aspects of the FOIA process, specifically how to conduct a reasonable search and how to accurately document the search. Moreover, the FOIA Reference Guide is available on our external and internal website. It provides guidance on how the FOIA process is implemented at EXIM.

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?

The presumption of openness is essential to EXIM's FOIA practice. The FOIA Team consults routinely with EXIM components that created/generated records in order to discuss the records' significance and determine any actual harm in disclosure. The agency continues to release documents on the EXIM website to provide transparency and public access to records. These records include environmental and social documents, historical documents, quarterly deal data and US Export Data by State.

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

EXIM receives most requests electronically, either via email through a dedicated FOIA mailbox, through a fillable form on EXIM's website or the PAL Portal. The PAL Portal allows requesters to submit a request electronically and to check the status of their FOIA request. Because EXIM is a small agency and its FOIA office is centralized, headquarters is the only component within EXIM which receives FOIA requests. Each

member of EXIM's FOIA Team receives these requests via email; this ensures that the initial request is seen by all team members. The Chief FOIA Officer also receives requests via email when submitted. The FOIA Team logs in any requests received via direct mail or email and assigns a tracking number. The tracking number is provided to the requester via direct mail or email. Requests submitted through the PAL Portal are logged automatically and assigned a tracking number and automatically provided to the requester via email. 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 email to seek clarification. If the request is overly broad, the FOIA 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.

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

The Chief FOIA Officer provides weekly updates to the Chairman and President of EXIM on the status of the FOIA program. 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. A bi-weekly meeting is scheduled with the FOIA Team and the Chief FOIA Officer.

1. *For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating request for expedited processing?*

EXIM received 6 requests for expedited processing in FY 2019. EXIM reported 5.5 days for adjudicating these request 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.*

Not applicable

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

No, in FY 2019 EXIM did not conduct a self-assessment. As noted, however, the FOIA Team meets with the Chief FOIA Officer throughout the year to discuss effectiveness of the program and improvements that can be implemented.

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 how often requesters sought assistance from your agency's FOIA Public Liaison.*

EXIM notifies requesters about the services provided by the Agency's FOIA Public Liaison in the acknowledgment letter and final response letter. Approximately 10 requesters sought assistance from the agency's FOIA Public Liaison.

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 records that have been requested and released three or more times in accordance 5 U.S.C. § 552(a)(2)(D).*

Materials EXIM has proactively disclosed and posted on the Web site:

- FOIA Annual Reports- <https://www.exim.gov/about/foia/annual-reports>
- EXIM Annual Reports- <https://www.exim.gov/news/reports/annual-reports>
- FOIA Log- <https://www.exim.gov/sites/default/files/foia/FOIA-log-2013-december-31-2019.pdf>
- <https://www.exim.gov/sites/default/files/foia/FOIA-log-2013-december-31-2019.pdf>
- Country Limitation Schedule- <https://www.eim.gov/tools-for-exporters/country-limitation-schedule>
- Minutes of the Board of Directors and Credit Committee
<https://www.exim.gov/news/minutes>
- The Chief FOIA Officer Reports- <https://www.exim.gov/about/foia/chief-foia-officer-reports>
- Budget Justification Reports- <https://www.exim.gov/about/foia/frequently-requested-records-and-proactive-disclosures>
- Quarterly Data- <https://data.exim.gov/>
- Environmental and Social Impact Assessments- <https://www.exim.gov/policies/ex-im-bank-and-the-environment/pending-transactions>
- Library Digital Archives- <http://www.digitalarchives.exim.gov/>

- Competitiveness Report- <https://www.exim.gov/news/reports/competitiveness-reports>
- Export Data-USA- <https://customermap.exim.gov/index.cfm>

2. *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.

3. *If yes, please provide examples of such improvements.*

EXIM continuously updates its website and FOIA page to make information easily accessible to the public and more user friendly. Content on the website is provided either in HTML, PDF, XML and CSV formats and all content is Section 508 Compliant. Electronic forms are provided to allow requesters or users to apply for services online. EXIM also continues to update the downloadable statistical data relating to EXIM transactions.

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

EXIM continues to proactively disclose information on its website. The FOIA office periodically reaches out to other offices within the agency to identify records or information that could be proactively disclosed. This allows the agency to identify records outside of the FOIA office that can be disclosed by posting on the website.

Section IV: Steps Taken to Greater Utilize Technology

1. *Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.*

No, in FY 2019, EXIM did not leverage or acquire new technology.

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 during the reporting period to assure it addresses the elements noted in the guidance?

Yes.

3. *Did your agency successfully post all four quarterly reports for Fiscal Year 2019?*

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 2020.*

Not applicable.

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 2018 Annual Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.*

FY 2018 Annual Report Raw Data:

<https://www.exim.gov/about/freedom-information-act/foia-annual-reports/2018>

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?*

Yes.

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 2019?*

Yes.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.*

In 2019, 48.2 percent of the requests processed were placed on the simple track.

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?*

Not applicable.

B. Backlogs:

Backlogged Requests

5. *If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?*

Yes, the backlog decreased by 10 requests, from 41 to 31.

6. *If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018?*

No.

7. *If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog.*

Not applicable.

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 2019.*

In FY 2019, 39 percent of requests make up the backlog.

Backlogged Appeals

9. *If your agency had a backlog of appeals at the close of the Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?*

EXIM did not have a backlog of appeals at the close of FY 2019.

10. *If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?*

Not applicable.

11. *If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog.*

Not applicable.

12. *If you had an appeal backlog please report the percentage of the appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019.*

EXIM did not have an appeal backlog at the close of FY 2019.

C. Backlog Reduction Plans

13. *In the 2019 guidelines for Chief FOIA Officer Report, any agency with a backlog of over 1000 requests in Fiscal Year 2018 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 the agency was able to achieve backlog reduction in Fiscal Year 2019?*

Not applicable.

14. *If your agency had a backlog of more than 1000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?*

Not applicable.

D. Status of Ten Oldest Requests, Appeals, and Consultations:

Ten Oldest Requests

15. *In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

No.

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 2018 Annual FOIA Report.*

In FY 2019, EXIM closed 7 of the ten oldest requests and provided interim responses for the requests that remain open.

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

EXIM's FOIA Team meets regularly to monitor the FOIA case queue, discuss any issues that arise with any case and set processing goals for backlog cases. EXIM continues to provide interim responses for backlog cases. Additionally, with the support of EXIM's newly appointed President and Chairman, EXIM took steps to double staffing of the FOIA Team from 2 approved FTE FOIA Specialist to 4 FTEs.

Ten Oldest Appeals

18. *In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

Not applicable.

19. *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 2018 Annual FOIA Report.*

EXIM did not have any pending appeals at the end of FY 2019.

20. *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

21. *In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?*

Not applicable.

22. *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 2018 Annual FOIA Report.*

EXIM did not have any consultations pending at the end of FY 2018. In FY 2019, EXIM received only two consultations and closed one.

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

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2019.

EXIM had three main challenges in closing the ten oldest requests: the requests required the search of multiple Divisions within EXIM; involved the review of complex or voluminous records; and required application of the of submitter notice process pursuant to EXIM's regulation. The records for the ten oldest requests include transaction records, email correspondences regarding the transactions, and EXIM's due diligence and decision-making processes. These records also contain personal and confidential business information and information of interest to the submitter, which requires an additional review under the submitter notice process. These challenges add significant time to the processing of these requests. Despite these challenges, EXIM provided interim responses to the all of the oldest requests that remain open.

24. If your agency was unable to close any of its ten oldest request 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.

25. 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 2019.

EXIM will close out the 3 remaining of the ten oldest FOIA request by continuing to review documents and provide interim responses on a rolling basis. With the addition of 2 FTEs this FY, EXIM is confident that it will make significant progress in this area.

F. Success Stories:

The Export-Import Bank continues to show its commitment to transparency and the principles of Open Government. In FY 2019, EXIM's FOIA professionals were able to close 28 of its oldest pending FOIA request, of which 7 were the 10 oldest. Additionally, EXIM closed 85 FOIA cases, 1 consult and 2 appeals. The oldest requests were originally received in FY 2014. EXIM's newly appointed President and Chairman demonstrated her commitment to FOIA by doubling the staffing resources from 2 FTE FOIA Specialists to 4 FTEs.