

EXXIM

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

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*Chief FOIA
Officer Report
March 2021*

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Chief FOIA Officer Report
Fiscal Year 2021

Lisa V. Terry, Chief FOIA Officer

March 1, 2021

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 U.S. 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 Schedules, Minutes of the Board of Directors meetings, Congressional Budget Justification Reports, Congressional Logs and the Office of Ethics policies.

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

B. FOIA Training:

3. *The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. Describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.*

An email is sent to all FOIA professional outlining the training requirements under the FOIA. It also provides information on the various trainings offered by DOJ. A FOIA training reminder email is sent when training registration opens. Once training is completed, each FOIA professional must email the FOIA Public Liaison who keeps track of all training taken. Also, the FOIA office hosts FOIA training that is available to all EXIM employees.

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

Yes.

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

In 2020, EXIM's FOIA Team attended the Department of Justice Continuing FOIA Education, Best Practices Workshop, the Freedom of Information Act for Attorneys and Access Professionals Seminar. Topics discussed included Proactive Disclosures, Request Processing, Appeals, Fees and changes to the FOIA.

6. *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 2020, 80% of EXIM's FOIA professionals and staff attended and participated in FOIA training.

7. *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:

8. 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:

9. Describe any efforts your agency has taken 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.

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. Also, we provide Annual FOIA Training to non-FOIA professionals. This fiscal year, agency-wide FOIA training was held virtually through Microsoft Teams.

10. 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 U.S. 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 the National FOIA portal, 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 the FOIA Team 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 weekly meeting is scheduled with the FOIA Team and the Chief FOIA Officer.

1. *For Fiscal Year 2020, what was the average number of days your agency reported for adjudicating request for expedited processing?*

In FY 2020, EXIM reported 13 days for adjudicating expedited processing request.

2. *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 2020 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.*

Not applicable

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

No, in FY 2020 EXIM did not conduct a self-assessment. As noted, however, the FOIA Team meets with the Chief FOIA Officer regularly throughout the year to discuss effectiveness of the program and improvements that can be implemented.

4. *Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency's FOIA process. In addition, describing an agency's standard practices for handling FOIA request on agency FOIA websites can help requesters better understand how their request will be handled.*

- a. *Does your agency have SOPs that outline general processes for handling FOIA request and appeals?*

No, EXIM Bank does not have a finalized SOP.

- b. *If not, does your agency have plans to create FOIA SOP's?*

Yes, EXIM has drafted an SOP that is currently under review.

- c. *If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?*

Once the SOP is approved and finalized, EXIM will review the SOP as necessary to reflect any changes in the law, the FOIA process and any technology used by the Agency for FOIA.

- d. *In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling request on your website.*

EXIM's standard process for handling request is outlined in the Agency's FOIA Reference Guide. The FOIA Reference Guide is available on the EXIM Bank Website at: <https://www.exim.gov/sites/default/files/foia/foia-factsheet.pdf>.

5. *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 five requesters sought assistance from the agency's FOIA Public Liaison.

6. *Does your agency frequently receive common categories of first-party request? If so, please describe the type of request and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?*

EXIM does not frequently receive first-party request. However, the first party requests we receive are usually from former Agency employees seeking personnel records or specific communications or documents. The Agency does have a process in place outside of FOIA for employees to receive personnel records.

7. *The FOIA Improvement Act of 2016 requires all agencies to update their FOIA regulations with 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?*

No, EXIM did not update its FOIA regulations within 180 days. However, EXIM has drafted updated FOIA Regulations that are currently under review.

8. *Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing.*

The FOIA office posted a message on its FOIA page to notify requesters of any impacts COVID-19 is having on FOIA processing. All FOIA employees are working remotely, which allows them to continue processing FOIA request. Also, the FOIA office is working with the Agency on site Print Shop Department to scan in records that aren't electronically available, so the FOIA office can process the records and provide electronically. FOIA staff has also been provided additional equipment, such as extra monitors, to help facilitate processing remotely.

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-september-30-2020.pdf.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>
- Congressional 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.

Section IV: Steps Taken to Greater Utilize Technology

1. *Briefly describe the type of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.*

EXIM uses FOIAXpress and Adobe to support the FOIA program. FOIAXpress is an electronic information system. The Agency uses it to track FOIA requests. The Agency uses Adobe to redact documents. In FY 2020, 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 2020?*

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 2021.*

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 2019 Annual Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.*

FY 2019 Annual Report Raw Data: <https://www.exim.gov/about/freedom-information-act/foia-annual-reports/2019>

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, 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 2020?*

No. Overall average number of days to process simple requests is 32.3.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track.*

In 2020, 50 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 2020, according to Annual FOIA Report Section XII.A, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

Yes, the backlog decreased by 11 requests, from 31 to 20.

6. *If not, according to Annual FOIA Report Section V.A, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?*

Yes, EXIM did process more request in FY 20 than it did in FY 2019. In FY 2019 EXIM processed 85 requests and 96 in FY 2020.

7. *If your agency's request backlog increased during Fiscal Year 2020, 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 2020, 25 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 2020, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?*

EXIM did not have a backlog of appeals at the close of FY 2020.

10. *If not, according to section VI.A of the Annual FOIA Report did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?*

Not applicable.

11. *If your agency's appeal backlog increased during Fiscal Year 2020, 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 2020.*

EXIM did not have an appeal backlog at the close of FY 2020.

C. Backlog Reduction Plans

13. *In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 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 2020?*

Not applicable.

14. *If your agency had a backlog of more than 1000 requests in Fiscal Year 2020, please explain your agency's plan to reduce this backlog during Fiscal Year 2021?*

Not applicable.

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

Ten Oldest Requests

15. *In Fiscal Year 2020, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E of in your Fiscal Year 2019 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 2019 Annual FOIA Report.*

In FY 2020, EXIM closed 8 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.

Ten Oldest Appeals

18. *In Fiscal Year 2020, did your agency close the ten oldest appeals in Section VI.C.5. of your Fiscal Year 2019 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 VI.C.(5) of your Fiscal Year 2019 Annual FOIA Report.*

EXIM did not have any pending appeals at the end of FY 2020.

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 2020, did your agency close the ten oldest consultations that were reported pending in Section XII.C of your Fiscal Year 2019 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 2019 Annual FOIA Report.

EXIM had one consultation pending at the end of FY 2019. In FY 2020, EXIM received three consultations and closed four.

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 2020.

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 all 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 2021.

EXIM will close out the 2 remaining of the ten oldest FOIA request by continuing to review documents and provide interim responses on a rolling basis.

F. Success Stories:

The Export-Import Bank continues to show its commitment to transparency and the principles of Open Government. In FY 2020, EXIM's FOIA professionals were able to close 28 of its oldest pending FOIA requests, 8 of which were the 10 oldest. Additionally, EXIM closed a total of 96 FOIA requests, 4 consults and 1 appeal. The oldest requests were originally received in FY 2015. In addition, the EXIM Chairman and President demonstrated her commitment to transparency by approving the doubling of FOIA specialist FTEs.