

EXXIM

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

Reducing Risk. Unleashing Opportunity.

*Annual Freedom
of Information Act
Report*

Fiscal Year 2020

The following **Annual Freedom of Information Act (FOIA) Report** covers the period of October 1, 2019 through September 30, 2020, as required by 5 U.S.C. 552.

I: Basic Information Regarding Report

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

Lisa V. Terry, Chief FOIA Officer
Export-Import Bank of the United States
811 Vermont Avenue, N.W.
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(202) 565-3195
Lisa.Terry@exim.gov

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811 Vermont Avenue, N.W.
Washington, D.C. 20571
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2. Electronic link for access to the Report on the agency Website.

<http://www.exim.gov/about/foia/annual-reports>

3. To receive a "hard copy" of this Report, contact either of the above named individuals.

II: Making A FOIA Request

1. All FOIA request are received and processed at the following address:

Export-Import Bank of the United States
811 Vermont Avenue, N.W.
Washington, D.C. 20571
(202) 565-3290

Guidance on making a FOIA request can be found at:

<http://www.exim.gov/about/foia>

2. Brief description of why some request are not granted:

Ex-Im Bank most commonly withholds information pursuant to FOIA Exemptions (b)(4) and (b)(5). Exemption (b)(4) is mostly applied to information received as part of Ex-Im Bank's review of credit applications. The information is received from buyers, commercial financial institutions, suppliers, and other private sector entities and is sensitive and business confidential in nature. Exemption (b)(5) is generally applied to staff correspondence generated during the credit review process, and to pre-decisional memoranda prepared for the Bank's Directors containing staff analyses and recommendations.

3. Electronic link to agency FOIA regulations:

[Ex-Im Bank FOIA Regulations - eCFR \(link is external\)](#)

III: Acronyms, Definitions, and Exemptions

1. Including the following definitions of terms used in this Report:
 - a. **Administrative Appeal**- a request to federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
 - b. **Average Number**- the number obtained by dividing the sum of a group of numbers by quantity of numbers in the group. For example, 3, 7, and 14, the average number is 8.
 - c. **Backlog**- the number of request or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
 - d. **Component**- for agencies that process requests on a decentralized basis, a “component” is an entity, also, sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA request. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
 - e. **Consultation**- the procedure whereby the agency responding to a FOIA request first forwards a record to another agency or component within the same agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency or component within the same agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
 - f. **Exemption 3 Statute**- a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.

- g. **FOIA Request**- a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., “third party” request), or concerning an organization, or particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first party” request) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “system of records” or where Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this report.)
- h. **Full Grant** – any agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – any agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited Processing** – any agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Granted/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfect Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days** – the lowest and highest number of days to process request or administrative appeals.
- q. **Time Limits** – the time period in the statute for any agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

2. Include the following concise description of the nine FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information
- b. **Exemption 2:** information that is related solely to the internal personnel rules and practices of an agency
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be

expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual

- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

3. Agency Component Abbreviations

Component Abbreviation	Component Name
HQ	Headquarters
OIG	Office of Inspector General

IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
5 U.S.C. app. § 107(a) (Ethics in Government Act of 1978)	Confidential financial disclosure report pertaining to certain government employees	Meyerhoff v. EPA, 958 F.2d 1498, 1500-02 (9th Cir. 1992); Boyd v. Exec. Off. for U.S. Att'ys, 161 F. Supp. 3d 1, 7 (D.D.C. 2015); Seife v. NIH, 874 F. Supp. 2d 248, 254 (S.D.N.Y. 2012).	HQ	1	1
41 U.S.C. § 2102 (amending 41 U.S.C. § 423(a)(1)) (Procurement Integrity Act)	Contractor bid or proposal information; source selection information	Legal & Safety Emp. Rsch., Inc. v. U.S. Dep't of the Army, No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum).	HQ	1	1

V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	Number of Requests Pending as of	Number of Requests	Number of Requests	Number of Requests Pending as of
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	Start of Fiscal Year	Received in Fiscal Year	Processed in Fiscal Year	End of Fiscal Year
HQ	35	73	94	14
OIG	3	6	2	7
AGENCY OVERALL	38	79	96	21

After reviewing its database, EXIM Bank adjusted the number of requests pending at the start of the Fiscal Year for the following components: HQ, OIG.

V.B.(1). DISPOSITION OF FOIA REQUESTS -- ALL PROCESSED REQUESTS

Agency / Component	Number of Full Grants	Number of Partial Grants / Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in Chart Below	
HQ	20	40	2	26	0	0	1	5	0	0	0	0	94
OIG	0	0	1	0	0	1	0	0	0	0	0	0	2
AGENCY OVERALL	20	40	3	26	0	1	1	5	0	0	0	0	96

V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
HQ	N/A	0	0
OIG	N/A	0	0
AGENCY OVERALL			0

V.B.(3). DISPOSITION OF FOIA REQUESTS -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
HQ	0	0	2	24	24	29	0	0	2	0	1	0	0	0
OIG	0	0	0	0	0	1	0	0	1	0	0	0	0	0
AGENCY OVERALL	0	0	2	24	24	30	0	0	3	0	1	0	0	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Agency / Component	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
HQ	0	1	1	0
OIG	0	0	0	0
AGENCY OVERALL	0	1	1	0

VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS

Agency / Component	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
HQ	1	0	0	0	1
OIG	0	0	0	0	0

AGENCY OVERALL	1	0	0	0	1
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VI.C.(1). REASONS FOR DENIAL ON APPEAL -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
HQ	0	0	0	1	1	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	1	1	0	0	0	0	0	0	0	0	0

VI.C.(2). REASONS FOR DENIAL ON APPEAL -- REASONS OTHER THAN EXEMPTIONS

Agency / Component	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
HQ	0	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

	Number of Days Pending	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days Pending	0	0	0	0	0	0	0	0	0	0

VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
HQ	17	32.74	<1	377	228	292.3	3	1100	17	17	17	17
OIG	10	10	10	10	23	23	23	23	N/A	N/A	N/A	N/A
AGENCY OVERALL	17	32.3	<1	377	218	286	3	1100	17	17	17	17

VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days

HQ	9	36	<1	377	272	341	3	1100	N/A	N/A	N/A	N/A
OIG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
AGENCY OVERALL	9	36	<1	377	272	341	3	1100	N/A	N/A	N/A	N/A

VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	27	10	2	6	0	0	0	1	0	0	0	1	0	47
OIG	1	0	0	0	0	0	0	0	0	0	0	0	0	1
AGENCY OVERALL	28	10	2	6	0	0	0	1	0	0	0	1	0	48

VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	6	3	3	5	0	1	0	0	1	0	7	3	12	41
OIG	0	1	0	0	0	0	0	0	0	0	0	0	0	1
AGENCY OVERALL	6	4	3	5	0	1	0	0	1	0	7	3	12	42

VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
HQ	1	0	0	0	0	0	0	0	0	0	0	0	0	1
OIG	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	1	0	0	0	0	0	0	0	0	0	0	0	0	1

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Agency / Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
HQ	1	173	173	13	406	445	0	N/A	N/A
OIG	5	222	216	2	244	243	0	N/A	N/A
AGENCY OVERALL	6	221	209	15	386	418	0	N/A	N/A

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
HQ	Date of Receipt	2019-10-22	2019-09-06	2019-06-12	2019-02-21	2019-01-23	2018-10-23	2018-05-22	2018-02-23	2017-06-23	2015-08-06
	Number of	237	268	328	406	426	487	593	655	821	1293

	Days Pending										
OIG	Date of Receipt	N/A	N/A	N/A	2020-06-01	2020-05-07	2019-11-18	2019-11-13	2019-10-15	2019-07-03	2019-03-21
	Number of Days Pending	0	0	0	85	101	219	222	242	313	386
AGENCY OVERALL	Date of Receipt	2019-07-03	2019-06-12	2019-03-21	2019-02-21	2019-01-23	2018-10-23	2018-05-22	2018-02-23	2017-06-23	2015-08-06
	Number of Days Pending	313	328	386	406	426	487	593	655	821	1293

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
HQ	1	1	13	13	1
OIG	0	0	N/A	N/A	0
AGENCY OVERALL	1	1	13	13	1

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate

HQ	23	3	4	20.3
OIG	0	0	N/A	N/A
AGENCY OVERALL	23	3	4	20.3

IX. FOIA Personnel and Costs

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
HQ	3	0.60	3.60	413234.00	17080.00	430314.00
OIG	0	0.10	0.10	13345.00	0.00	13345.00
AGENCY OVERALL	3	0.70	3.70	426579.00	17080.00	443659.00

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
HQ	248.00	0.0600
OIG	0.00	0.0000
AGENCY OVERALL	248.00	0.0600

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection Used
HQ	0
OIG	0
AGENCY OVERALL	0

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
HQ	7	1
OIG	0	4
AGENCY OVERALL	7	5

XII.A. Backlogs of FOIA Requests and Administrative Appeals

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
HQ	13	0
OIG	7	0

AGENCY OVERALL	20	0
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XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
HQ	1	3	4	0
OIG	0	0	0	0
AGENCY OVERALL	1	3	4	0

XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0

XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
HQ	68	73	77	94
OIG	11	6	8	2
AGENCY OVERALL	79	79	85	96

XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED REQUESTS

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
HQ	28	13
OIG	3	7
AGENCY OVERALL	31	20

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from	Number Received During Fiscal Year from	Number Processed During Fiscal Year from Last	Number Processed During Fiscal Year from

	Last Year's Annual Report	Current Annual Report	Year's Annual Report	Current Annual Report
HQ	2	1	2	1
OIG	0	0	0	0
AGENCY OVERALL	2	1	2	1

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
HQ	0	0
OIG	0	0
AGENCY OVERALL	0	0