

Fiscal Year 2010 Freedom of Information Act Annual Report Overseas Private Investment Corporation (OPIC)

I. BASIC INFORMATION REGARDING REPORT

1. For information concerning this report, you may contact:

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2. You may access this report on OPIC's web site: www.opic.gov
3. You may obtain a paper copy of this report by contacting the official named above.

II. MAKING A FOIA REQUEST

1. FOIA requests are received by OPIC at its office located at the address stated above. A request may be made by, (1) mailing a written request to the official at the address stated above, (2) faxing a request to (202) 408-0297, or (3) sending an email to foia@opic.gov.
2. OPIC makes every effort to respond to FOIA requests within the statutory 20-day timeframe. Many requests are answered within one or two days. However, responses to requests for project documents generally require more time. In addition, OPIC's response may be delayed by a need to obtain clarification from a requester on the scope of the request. OPIC's records are made available to the public to the greatest extent possible, in keeping with the spirit of the FOIA. This includes providing reasonably segregable information from records that also contain information that may be withheld under the FOIA. However, the soundness and viability of many of OPIC's programs depend in large measure upon the submission of full and reliable commercial, financial, technical and business information by applicants for OPIC assistance. Further, the willingness of those applicants to provide such information depends on OPIC's ability to hold it in confidence. Consequently, except as provided by law, information provided to OPIC in confidence will not be disclosed without the submitter's review.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. **Agency-specific acronyms:**

OPIC—the Overseas Private Investment Corporation

2. Definitions of terms used in this Report:

- a. **Administrative Appeal**—a request to a 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 the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog**—the number of requests 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 requests. 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 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 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., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) 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 “systems of records” or where a 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 requestor. 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**—an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial**—an 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**—an 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 Grant/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 requests or administrative appeals.
- q. **Time Limits**—the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions of the nine FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information
- b. **Exemption 2:** internal agency rules and practices
- 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

IV. EXEMPTION 3 STATUTES

Statute Used	Material withheld
4 U.S.C. § 253b(m)	Proposal not incorporated into contract.
26 U.S.C. § 6103(a)	Tax return status.
5 U.S.C. § 552b(c)(1)	Closed Board Meeting minutes.
5 U.S.C. App. § 107(a)(2)	Names and financial information beyond what must be publically available in financial disclosure forms.

V. FOIA REQUESTS

A. Received, Processed and Pending FOIA Requests

Number of Requests Pending as of Start of FY 2008	Number of Requests Received in FY 2009	Number of Requests Processed in FY 2009	Number of Requests Pending as of End of Fiscal Year
1	44	43	2

B. (1) Disposition of FOIA Requests—All Processed Requests

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 *See chart below	
4	20	2	10	1	1	1	0	2	0	2	0	43

B. (2) Disposition of FOIA Requests—"Other" Reasons for "Full Denials Based on Reasons Other than Exemptions" from Section V, B(1) Chart

OPIC did not deny any requests based on reasons other than the ones listed above.

B. (3) Disposition of FOIA Requests—Number of Times Exemptions Applied

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
0	13	4	9	11	12	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATION OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

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
0	4	4	0

B. Disposition of Administrative Appeals—All Processed Appeals

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
0	4	0	0	4

C. (1) Reasons for Denial on Appeal—Number of Times Exemptions Applied

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
0	3	0	1	3	2	0	0	0	0	0	0	0	0

C. (2) Reasons for Denial on Appeal—Reasons Other than Exemptions

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
1	0	0	0	0	0	0	0	0	0	0

C. (3) Reasons for Denial on Appeal—“Other” Reasons from Section VI, C(2) Chart

OPIC did not deny any appeals based on reasons other than exemptions.

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
17.5	15	4	21

C. (5) Ten Oldest Pending Administrative Appeals

Date of Receipt of Oldest Appeal	none
Number of Days Pending	

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests—Response Time for All Processed Perfected Requests

Regular Requests ¹				Expedited Requests ²			
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
9	17.95	<1	92	0	0	0	0

B. Processed Requests—Response Time for Perfected Requests in Which Information Was Granted

Regular Requests ¹				Expedited Requests ²			
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
20.5	28.42	<1	92	0	0	0	0

C. Processed Requests—Response Time in Day Increments

Regular Requests

Less than 1 Day	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
8	23	6	2	3	1	0	0	0	0	0	0	0	0	43

¹ OPIC uses a single track system.

² OPIC received only one request for expedited processing which required a determination. This request was denied, therefore no requests were processed on an expedited track.

Expedited Requests

Less than 1 Day	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
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests—All Pending Perfected Requests

Regular Requests			Expedited Requests		
Number Pending	Median Number of Days	Average Number of Days	Number pending	Median Number of Days	Average Number of Days
2 ³	23.5	23.5	0	0	0

E. Pending Requests—Ten Oldest Pending Perfected Requests

10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
								09/15/10 11	08/10/10 36

³ One request was tolled after five business days and is awaiting requester clarification and fee authorization. One request was received only 11 business days prior to the end of FY2010.

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within 10 Calendar Days
0	1	0	0	1

B. Requests for Fee Waiver

Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within 10 Calendar Days
0	2	6	6	2

IX. FOIA PERSONNEL AND COSTS

PERSONNEL			COSTS		
Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time Staff" (The sum of columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs
0	1.2	1.2	\$98,586	0	\$98,586

X. FEES COLLECTED FOR PROCESSING REQUESTS

Total Amount of Fees Collected	Percentage of Total Costs
\$4574.75	4.640%

XI. FOIA REGULATIONS

[Link to OPIC’s FOIA Regulations](#) ⁴

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

Number of Backlogged Requests at End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
2 ⁵	0

B. Consultations on FOIA Requests—Received, Processed, and Pending Consultations

Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of Start of Fiscal Year	Number of Consultations Received from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Processed by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were Pending at Your Agency as of the End of the Fiscal Year
0	1	1	0

⁴ http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=29480ce7afedfa310f161f256da26243&c=ecfr&tpl=/ecfrbrowse/Title22/22cfrv2_02.tpl#700

⁵ One request was tolled after five business days and is awaiting requester clarification and fee authorization. One request was received only 11 business days prior to the end of FY2010.

C. Consultations on FOIA Requests—Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

Oldest Consultation and Number of Days Pending
None

D. Comparison of Numbers of Requests from Previous and Current Annual Reports—Requests Received, Processed, and Backlogged

NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
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
38	44	37	43
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	
1		2	

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report—Appeals Received, Processed, and Backlogged

NUMBER OF APPEALS RECEIVED⁶		NUMBER OF APPEALS PROCESSED	
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
1	4	2	4

⁶ One requester submitted multiple large requests, all pertaining to pending litigation. This requester also appealed most of the initial determinations made on the requests, resulting in higher than average appeals.

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
0	0