

**Executive Order 13392 FOIA Program Implementation Plan: the Overseas Private
Investment Corporation (“OPIC”)**

A. Nature of OPIC’s FOIA operations

OPIC is an independent wholly owned U.S. Government corporation with approximately 200 employees located in one facility. As a consequence, OPIC’s FOIA operation is centralized. OPIC receives less than 100 FOIA requests per year, and the volume has trended lower over the past three years: OPIC’s FOIA volume peaked at ninety-one in fiscal year 2004, decreased to seventy-six in fiscal year 2005, and is expected to fall below fifty in fiscal year 2006 (based on an extrapolation of the volume received to date). This volume decrease may be attributed to OPIC’s affirmative disclosure of records on its website.

In accordance with Executive Order 13392, OPIC has designated: 1) Mark Garfinkel, Vice President & General Counsel, as its Chief FOIA Officer, 2) Christopher Coughlin, Vice President, Office of External Affairs, as the FOIA Liaison, and 3) Eli Landy, FOIA Director, as the contact person for OPIC’s FOIA Service Center. These officials may be contacted at the following telephone numbers: Mark Garfinkel: 202-336-8410, Chris Coughlin: 202-336-8408, and Eli Landy: 202-336-8418.

In addition, OPIC’s FOIA personnel consist of a FOIA Director, a FOIA paralegal, an administrative assistant, and FOIA coordinators in each of OPIC’s nine operational departments. None of these personnel is dedicated full-time to FOIA matters: each performs FOIA responsibilities in addition to other duties.

In fiscal year 2005 (“FY05”), OPIC responded to 76% of FOIA requests within the twenty-business day timeframe, and responded to an additional 11% within three weeks of the statutory response deadline. OPIC’s average response timeframe was 13.5 days. This response time was due in large part to OPIC staff’s cognizance of the importance of responding to FOIA requests in a timely manner and ensuring such compliance. OPIC has no current FOIA backlog, and has only one request currently outstanding.

In light of OPIC’s low FOIA volume, absence of a backlog, and knowledgeable and cooperative employees, OPIC has determined that it does not require multi-track processing and extensive employee FOIA training.

OPIC maintains a FOIA status log to track the progress of FOIA requests, and the FOIA Director has been diligent in responding to requests for FOIA status updates. However, OPIC can improve its customer service by acknowledging receipt of FOIA requests and affirmatively contacting FOIA requesters to apprise them of the status of their requests.

Notwithstanding its overall success, OPIC’s FOIA program experienced difficulty in responding to requests for voluminous transaction documents. Although these requests

are infrequent, OPIC has reviewed each aspect of its FOIA process to determine which components represent areas requiring improvement, with the objective of reducing OPIC's response cycle for requests for voluminous records.

B. Areas for review

OPIC reviewed each component of its FOIA operations to prepare the current plan. Specifically, OPIC examined each of the following phases: 1) intake (receipt of request and distribution of requests to the appropriate offices), 2) search for responsive records, 3) internal document review, 4) communication with business submitters, 5) business submitters' external review (of information it provided to OPIC that may contain confidential commercial or financial information), and 6) response to requesters.

C. Results of the review

1. Intake

OPIC's intake processes operate efficiently. Even with respect to broad and voluminous requests, OPIC's FOIA Office logged incoming requests on the date of receipt and distributed them to the appropriate offices within 2 days.¹ OPIC deems this element satisfactory.

2. Search

This component is comprised of three sub-elements: 1) the responsive office's search for records, 2) the FOIA coordinator's compilation of these records for department head review, and 3) the department head's review. For the requests for voluminous records, OPIC's search time averaged more than sixteen business days. OPIC designates this element as an improvement area, and will elaborate below (Section E) on its improvement plan.

3. Internal document review

OPIC's review revealed that this phase required twenty business days for requests seeking voluminous records. The primary cause was the lack of an adequate back up to the FOIA Director. The FOIA Director was the sole employee conducting the initial FOIA review, and therefore documents responsive to different requests were reviewed

sequentially rather than simultaneously: records responsive to one request could not be reviewed until the FOIA Director completed the review of responsive records previously received. OPIC designates this element as an improvement area, and will elaborate below (Section E) on its improvement plan.

¹ In addition, since the requesters have increasingly transmitted their requests by facsimile or electronic mail, OPIC's FOIA Office often receives and logs in requests on the same date noted in the requests.

4. Communication with business submitters

This element does not require improvement, in light of OPIC's findings that the FOIA Director transmitted pre-disclosure notification letters (in accordance with Executive Order 12600 and OPIC's FOIA regulations) within one day of completing the internal review.

5. External document review

In accordance with Executive Order 12600 and OPIC's FOIA regulations, OPIC is required to notify a business submitter² when information that it provided to OPIC (and that is responsive to a FOIA request) reflects potentially confidential commercial or financial information, and afford such party an opportunity to review the responsive records and comment on disclosure. In such situations, OPIC provides the business submitter ten business days to review the documents and provide OPIC with its comments (e.g., objections or consent to disclosure). OPIC's review indicated that this component did not materially add to OPIC's delayed responses to broad and voluminous requests, since most business submitters responded within the ten-day timeframe. In addition, in those instances when business requesters sought extensions, such extensions averaged three days. Therefore, OPIC has deemed this component satisfactory.

6. Responses to requesters

Once OPIC completes its search and review of responsive records, it prepares responses to the requesters. This phase consists of three sub-elements: 1) the time it takes the FOIA Director to draft a response, 2) the time for the response to receive management clearance, and 3) the interval between receipt of such clearance and the letter's conversion into final form and transmittal to the requester. In the case of requests for voluminous records, OPIC's review indicated that this component averaged thirty-nine business days. OPIC designates this element as an improvement area, and will elaborate below (Section E) on its improvement plan.

D. Identified improvement areas

OPIC identifies the following FOIA program components as areas requiring improvement:

1. Search
2. Internal review
3. Response to requesters
4. Customer service

² This term refers to the party that provided the information to OPIC; in OPIC's parlance, this refers to the project sponsor or insured.

E. Improvement Plan

I) **Area of improvement:** Search component

1. **Goal:** Reduce the average search time for this element (as it applies to broad and voluminous requests) from more than sixteen business days to ten business days.
2. **Measures to achieve the goal:** OPIC will (a) establish a search deadline for the FOIA coordinators, (b) implement a “tickler system” to remind FOIA coordinators of approaching search deadlines, and (c) notify a FOIA coordinator’s supervisor if/when the coordinator does not meet this deadline. The first measure will give the responsive office’s FOIA coordinator a specific deadline to compile and produce the records; if the coordinator fails to produce the documents within the allocated time frame, the FOIA office will notify his/her supervisor. Implementing a tickler system and following up with these offices halfway through the allotted search time should ensure that the search is on track and/or identify difficulties or ambiguities in the search parameters. OPIC will implement these measures no later than the date of this plan.
3. **Milestones:** OPIC expects to reduce average search time for broad requests or requests seeking voluminous records to thirteen days by no later than six months from the date of this report, and to ten days by no later than February 12, 2007.

II) **Area of improvement:** Internal review

1. **Goal:** Reduce internal review time average internal review time frame for requests seeking voluminous records to fifteen business days.
2. **Measures to achieve the goal:** OPIC will provide FOIA training to OPIC’s other senior administrative counsel and the FOIA paralegal, to enable them to review responsive records at the same time the FOIA Director reviews records for other FOIA requests. In this manner, OPIC will process its requests more efficiently and in a timelier manner.

Specifically, OPIC will: (a) survey FOIA training opportunities no later than September 2006, (b) register the senior counsel and/or FOIA paralegal for FOIA training by December 31, 2006, and (c) ensure that the senior counsel and/or FOIA paralegal complete such training by December 31, 2007.

3. **Milestones:** OPIC expects to reduce its internal review of records responsive to requests seeking voluminous records to eighteen days no later than nine months from the date of this report, and to fifteen days no later than December 31, 2007.

III) **Area of improvement:** Responses to requesters

1. **Goal:** Reduce the average response cycle to twenty days.
2. **Measure to achieve the goal:** OPIC will: (a) establish a review deadline, (b) implement a tickler system to remind reviewers about the approaching review deadline, and (c) if a reviewer misses a deadline, schedule a meeting with the Chief FOIA Officer, the FOIA Liaison and the reviewer to remind him/her of the requirement to meet the performance milestones. OPIC will implement these measures no later than the date of this report.
3. **Milestones:** OPIC will reduce the response cycle for voluminous requests to thirty days no later than nine months from the date of this submission. OPIC will further reduce the response time frame for such requests to twenty days by the end of December 2007.

IV) **Area of improvement:** Customer service

1. **Goal:** To acknowledge receipt of incoming FOIA requests within one week of receipt and apprise requesters of voluminous records concerning the status of their requests at three-week intervals thereafter.
2. **Measure to achieve the goal:** OPIC will: (a) instruct the FOIA Director to transmit an acknowledgement letter (or an acknowledgement email, if OPIC received the request by email) to requesters immediately upon receiving requests, and (b) establish a tickler system to remind the FOIA Director to apprise requesters of the status of their outstanding requests every three weeks.
3. **Milestones:** OPIC will implement these measures no later than the date of this submission.

F. Timelines for rectifying the improvement areas (note: all these areas concern voluminous requests only)

1. To be completed by December 31, 2006:
 - (a) reduce average search time from sixteen to thirteen days
 - (b) improve customer service by acknowledging receipt of requests and apprising requesters concerning the status of their requests
2. Tasks to be completed by December 31, 2007:
 - (a) reduce average search time from thirteen to ten days
 - (b) reduce average internal review time frame to fifteen days
 - (c) decrease response cycle time to twenty days