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additional information as it is developed.

(9) Whenever the Bank determines during the course of an investigation that it is necessary to compel or induce the cooperation of an employee, the Bank shall first consult with the Department of Justice. The Department of Justice will coordinate with the Bank to determine the procedures the Bank may use to compel an employee's participation without foreclosing possible criminal proceedings.

(10) The Bank shall maintain records of all disclosures that have been reported or investigated.

(11) All employees shall cooperate fully with officials of the Bank or other agencies who are conducting investigations of unauthorized disclosures of classified information.

(12) Employees determined by the Bank to have knowingly participated in an unauthorized disclosure of classified information or who have refused to cooperate with an investigation of such a disclosure shall be denied further access to classified information and shall be subject to other appropriate administrative sanctions. Prior to taking action against an employee in connection with the unauthorized disclosure or classified information, the Bank shall consult with the Department of Justice, Criminal Division.

**PART 404—INFORMATION DISCLOSURE**

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**Subparts C–E [Reserved]**

AUTHORITY: 5 U.S.C. 552 and 552a. Section 404.7 also issued under E.O. 12600, 52 F.R. 23781, 3 CFR, 1987 Comp., p. 235. Section 404.21 also issued under 5 U.S.C. 552a note.

SOURCE: 64 FR 14374, Mar. 25, 1999, unless otherwise noted.

**Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act.**

**§ 404.1 General provisions.**

(a) *Purpose.* This subpart establishes policy, procedures, requirements, and responsibilities for administration of the Freedom of Information Act (FOIA), 5 U.S.C. 552, at the Export-Import Bank of the United States (Ex-Im Bank).

(b) *Policy.* It is Ex-Im Bank's policy to honor all requests for the disclosure of its records, provided that disclosure would not adversely affect a legitimate public or private interest and would not impose an unreasonable burden on Ex-Im Bank. However, this subpart also recognizes that the soundness of many Ex-Im Bank programs depends upon the receipt of reliable commercial, technical, financial, and business information relating to applicants for Ex-Im Bank assistance and that receipt of such information depends on Ex-Im Bank's ability to hold such information in confidence. Consequently, except as provided by applicable law and this regulation, information provided

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to Ex-Im Bank in confidence will not be disclosed without the submitter's consent.

(c) *Scope.* All record requests made to Ex-Im Bank shall be processed under this subpart, except that information customarily furnished to the public in the regular course of the performance of official duties may continue to be furnished to the public without complying with this subpart. Requests made by individuals under the Privacy Act of 1974 which are processed under subpart B of this part also shall be processed under this subpart A.

(d) *Ex-Im Bank Internet site.* Ex-Im Bank maintains an Internet site at <http://www.exim.gov>. The site contains information on Ex-Im Bank functions, activities, programs, and transactions. Web site visitors have access to Board of Directors and Loan Committee meeting minutes, country information, and Ex-Im Bank press releases, among other information. Ex-Im Bank encourages all prospective FOIA requesters to visit the site prior to submission of a FOIA request.

(e) *Delegation.* Any action or determination in this subpart which is the responsibility of a specific Ex-Im Bank employee, may be delegated to a duly designated alternate.

(f) *Ex-Im Bank address.* The Export-Import Bank of the United States is located at 811 Vermont Avenue, NW, Washington, DC 20571.

### § 404.2 Definitions.

For purposes of this subpart, the following definitions shall apply:

*All other requesters*—Requesters other than commercial use requesters, educational and non-commercial scientific requesters, or representatives of the news media.

*Appeal*—A written request to the Ex-Im Bank Assistant General Counsel for Administration for reversal of an adverse initial determination.

*Business information*—Potentially confidential commercial or financial information that is provided to Ex-Im Bank.

*Business submitter*—Any person who provides business information to Ex-Im Bank.

*Commercial use request*—A request for a use or purpose that furthers the com-

mercial, trade or profit interest of the requester.

*Direct costs*—Expenditures incurred in the search, review, and duplication of records in response to a FOIA request.

*Educational institution*—A preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of professional or vocational education.

*Final determination*—The written decision by the Assistant General Counsel for Administration on an appeal.

*Initial determination*—The initial written determination by Ex-Im Bank regarding disclosure of requested records.

*Non-commercial scientific institution*—An institution that is operated for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry and that is not operated solely for purposes of furthering a business, trade or profit interest.

*Person*—An individual, partnership, corporation, association or organization other than a federal government agency.

*Record*—All papers, memoranda or other documentary material, or copies thereof, regardless of physical form or characteristics, created or received by Ex-Im Bank and preserved as evidence of the activities of Ex-Im Bank. "Record" does not include publications which are available to the public through the FEDERAL REGISTER, sale or free distribution.

*Redaction*—The process of removing non-disclosable material from a record so that the remainder may be released.

*Representative of the news media*—A person actively gathering information on behalf of an entity organized and operated to publish or broadcast news to the public. Freelance journalists shall qualify as representatives of the news media when they can demonstrate that a request is reasonably likely to lead to publication.

*Request*—Any record request made to Ex-Im Bank under the FOIA.

*Requester*—Any person making a request.

*Review*—The process of examining a record to determine whether any portion is required to be withheld. It includes redaction, duplication, and any