

Export-Import Bank of the U.S.

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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

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other preparation for release. Review does not include time spent resolving general legal and policy issues regarding the application of exemptions.

Search—The process of identifying and collecting records pursuant to a request.

Trade secrets—All forms and types of financial, business, scientific, technical, economic or engineering information, including, but not limited to, patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs or codes.

Unusual circumstances—The need to search for and collect requested records from facilities that are separate from Ex-Im Bank headquarters; the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or the need for consultation with another agency a person that has a substantial interest in the determination of the request.

Working days—All calendar days excluding Saturdays, Sundays, and Federal Government holidays.

§ 404.3 Public reference facilities.

Ex-Im Bank maintains a public reading room which contains the Ex-Im Bank records that the FOIA requires to be made available for public inspection and copying. The records available under this section include copies of records released pursuant to the FOIA that Ex-Im Bank determines have, or are likely to, become the subject of subsequent requests for substantially the same records. Requesters shall be responsible for the cost of duplicating such material in accordance with the provisions of § 404.9(e). Persons desiring to use the reading room should contact the Ex-Im Bank Freedom of Information and Privacy Office, either in writing at the address at § 404.1(f) or by telephone at (202) 565-3946 or (800) 565-3946, to arrange a time to inspect the available records.

§ 404.4 Request requirements.

(a) *Form*. Requests must be made in writing and must be signed by, or on behalf of, the requester. Requests should be addressed to the Freedom of Information and Privacy Office at the

address in § 404.1(f) and should contain both the return address and telephone number of the requester.

(b) *Description of records requested*. Each request must describe the records sought in sufficient detail so as to enable a professional employee of Ex-Im Bank familiar with the subject matter of the request to locate the record with a reasonable amount of effort. A request shall not be deemed to have been received until such time as the request adequately identifies the records sought. To the extent practicable, a description should include relevant dates, format, subject matter, and the name of any person to whom the record is known to relate. A general request for records with no accompanying date restriction, either express or implied, shall be deemed to be a request for records created within the preceding twelve months.

(c) *Fee statement*. The request must contain a statement expressing willingness to pay fees for the requested records or a request for a fee waiver (see § 404.10) before the request shall be deemed to have been received. A fee statement may specify the maximum amount a requester is willing to pay for processing the request.

(1) Whenever a requester submits a FOIA request that does not contain a fee statement or a request for a fee waiver, Ex-Im Bank shall advise the requester of the requirements of this paragraph. If the requester fails to respond within ten working days of such notification, then the Freedom of Information and Privacy Office shall notify the requester, in writing, that Ex-Im Bank will not process the request.

(2) A general statement by the requester expressing willingness to pay all applicable fees under § 404.9 shall be deemed an agreement to pay up to \$50.00. If Ex-Im Bank estimates that the fees for a request will exceed \$50.00, then Ex-Im Bank shall offer the requester the opportunity to agree, in writing, either to pay a greater fee or to modify the request as a means of limiting the cost.

(d) *Written notice of amendment*. The requester should provide any amendment to the original request in writing to Ex-Im Bank.