

Overseas Private Investment Corporation

§ 706.41.

§ 706.35 When will OPIC reduce or waive fees?

(a) *Waiver.* In accordance with the FOIA's fee waiver provisions, OPIC will furnish records to you without charge or at a reduced charge if disclosure of the information you request is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in your commercial interest. In determining whether a fee waiver is appropriate, OPIC will consider the following factors:

(1) Whether the subject of the requested records concerns the operations or activities of the government;

(2) Whether disclosure of the requested information is likely to contribute significantly to public understanding of government operations or activities;

(3) Whether you have the intention and ability to disseminate the information to the public;

(4) Whether the information is already in the public domain;

(5) Whether you have a commercial interest that would be furthered by the disclosure; and, if so,

(6) Whether the magnitude of your identified commercial interest is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in your commercial interest.

(b) *Justification.* In all cases, you have the burden of presenting sufficient evidence or information to justify the requested fee waiver or reduction.

(c) *Inspection.* You may come to OPIC's offices to inspect any releasable records that you requested without charge to you except for any search, review, and/or duplication fees that are otherwise payable.

(d) *Other provisions—*(1) *Aggregating requests.* When OPIC reasonably believes that a requester or group of requesters is attempting to break down a request into a series of requests for the purpose of evading the assessment of fees, OPIC will aggregate any such requests and charge accordingly.

(2) *Remittances.* All payments under this Part must be in the form of a check or a bank draft denominated in U.S. currency. Checks should be made

payable to the order of United States Treasury and mailed to the OPIC FOIA Office.

§ 706.36 How may I appeal a partial or total denial of records?

(a) *Procedure.* If your request for records has been denied in whole or in part, you may file an appeal within twenty working days following the date on which you receive OPIC's denial. Your appeal should be addressed to OPIC's Vice President and General Counsel. Your appeal is considered received by OPIC upon actual receipt by OPIC's Vice President and General Counsel. You should clearly mark your envelope and appeal letter as a "Freedom of Information Act Appeal." Your appeal letter should reasonably describe the information or records requested and any other pertinent facts and statements.

(b) *Response.* OPIC's Vice President and General Counsel or his/her designee will render a written decision within twenty working days after the date of OPIC's receipt of the appeal, unless an extension of up to ten working days is deemed necessary due to unusual circumstances. You will be notified in writing of any extension. If your appeal is denied in whole or in part, the decision will explain OPIC's rationale for upholding the denial. If your appeal is granted in whole or in part, the information or requested records will be made available promptly, provided the requirements of § 706.34 regarding payment of fees are satisfied.

Subpart D—Rights of Submitters of Confidential Business Information

§ 706.41. How should business submitters designate business information in materials submitted to OPIC?

All business submitters may designate, by appropriate markings, either at the time of submission or at a later time, any portions of their submissions that they consider to be protected from disclosure under the FOIA. These markings will be considered by OPIC in responding to a FOIA request but such markings (or the absence of such markings) will not be dispositive as to whether the marked information is ultimately released.