

## § 706.42

### **§ 706.42 When will OPIC notify business submitters of a pending FOIA request?**

(a) Except as provided in paragraph (e) of this section, OPIC's FOIA Office will promptly notify a business submitter in writing that a request for disclosure has been made for any business information provided by the submitter. This notification will describe the nature and scope of the request, advise the submitter of its right to submit written objections in response to the request, and inform the submitter of OPIC's intent to disclose the business information ten working days from the date of the notice. The notice will either describe the business information requested or include copies of the requested records.

(b) The business submitter may, at any time prior to the disclosure date described in paragraph (a) of this section, submit to OPIC's FOIA Office detailed written objections to the disclosure of the requested information, specifying the grounds upon which it contends that the information should not be disclosed. In setting forth such grounds, the submitter should explain the basis of its belief that the non-disclosure of any item of information requested is mandated or permitted by law. In the case of information that the submitter believes to be exempt from disclosure under subsection (b)(4) of the FOIA, the submitter shall explain why the information is considered a trade secret or commercial or financial information that is privileged or confidential and either: How disclosure of the information would cause substantial competitive harm to the submitter, or why the information should be considered voluntarily submitted and why it is information that would not customarily be publicly released by the submitter. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(c) The period for providing OPIC with objections to disclosure of information may be extended by OPIC upon receipt of a written request for an extension from the business submitter. Such written request shall set forth the date upon which any objections are expected to be completed and shall pro-

## 22 CFR Ch. VII (4-1-04 Edition)

vide reasonable justification for the extension. In its discretion, OPIC may permit more than one extension.

(d) OPIC may accept or reject the submitter's objections, in whole or in part. If OPIC rejects the submitter's objections, in whole or in part, OPIC will promptly notify the business submitter of its determination at least five working days prior to release of the information. The notification will include:

(1) A statement of the reasons for OPIC's decision to reject the business submitter's objections;

(2) A description of the information to be disclosed, or a copy thereof; and

(3) A specific disclosure date.

(e) OPIC will not ordinarily notify the business submitter pursuant to paragraph (a) of this section if:

(1) OPIC determines that the FOIA request should be denied;

(2) The disclosure is required by law (other than pursuant to 5 U.S.C. 552); or

(3) The information has been published or otherwise made available to the public, including material described in § 706.21.

### **§ 706.43 Who will OPIC notify if a FOIA lawsuit is filed?**

If a requester files a lawsuit seeking to compel the disclosure of business information, OPIC will promptly notify any business submitter(s) that submitted information at issue in the lawsuit.

### **§ 706.44 What happens to business information contained in OPIC records transferred to the National Archives of the United States?**

Under the Records Disposal Act, 44 U.S.C. Chapter 33, OPIC is required to transfer legal custody and control of records with permanent historical value to the National Archives. OPIC's Finance Project and Insurance Contract Case files generally do not qualify as records with permanent historical value. OPIC will not transfer these files except when the National Archives determines that an individual project or case is especially significant or unique. If the National Archives receives a FOIA request for records that have been transferred it will respond to