

OVERSEAS PRIVATE INVESTMENT CORPORATION

No FEAR Act Notice

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," commonly known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Pub. L. 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Pub. L. 107-174, Title I, General Provisions, Section 101(1).

The Act also requires the Overseas Private Investment Corporation (OPIC) to provide this notice to OPIC employees, former OPIC employees and applicants for OPIC employment to inform you of the rights and protections available to you under Federal antidiscrimination, whistleblower protection and retaliation laws.

Federal Antidiscrimination Laws

OPIC cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. §2302(b)(1), 29 U.S.C. §206(d), 29 U.S.C. §631, 29 U.S.C. §633a, 29 U.S.C. §791 and 42 U.S.C. §2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an OPIC Equal Employment Opportunity (EEO) Counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the personnel action, before you can file a formal complaint of discrimination with OPIC. 29 CFR §1614.105(a).

If you believe that you have been the victim of unlawful discrimination on the basis of **age**, you must either contact an EEO Counselor as noted above or give notice of intent to file a civil action in a United States District Court within 180 days of the alleged discriminatory action. 29 C.F.R. §1614.201. The notice of intent to sue must be provided to the U.S. Equal Employment Opportunity Commission (EEOC) at least 30 days before actually filing the civil action. **The notice must be sent to: Director, Office of Federal Operations, EEOC, 131 M Street, N.E., Suite 5SW12G, Washington, D.C. 20507.**

With respect to marital status or political affiliation discrimination, generally, Federal employees who raise such allegations may file a written complaint with the U.S. Office of Special Counsel (OSC). **However, this right does not extend to OPIC employees or applicants for OPIC employment because OPIC is a Federal corporation and is thus specifically excluded by the statute. 5 U.S.C. §2302(a)(2)(C)(i).** However, as an alternative, if you are alleging discrimination based on marital status or political affiliation, **you may file a grievance through**

OPIC's administrative or negotiated grievance procedures, to the extent such procedures apply and are available.¹

Whistleblower Protection Laws

An OPIC employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant ***because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety***, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Additionally, the statute protects any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences--(i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. §2302(b)(8). **If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW, Suite 218, Washington, DC 20036-4505 or on-line through the OSC Web site-- www.osc.gov.**

Retaliation for Engaging in Protected Activity

OPIC cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protections laws listed above, except as otherwise noted with respect to marital status and political affiliation discrimination. **If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.**

Disciplinary Actions

¹ **Marital status discrimination** occurs when management demonstrates a preference for employees or applicants who are married or single. An example would be assuming that married employees have family responsibilities which limit their ability to travel, and hiring only those applicants who are known to be single for a job requiring much travel.

Political affiliation discrimination occurs when management demonstrates a preference for, or aversion to, employees or applicants belonging to a particular political party or having associates with connections to a particular political party. An example might be hiring only those applicants, and promoting only those employees, known to be members of a given party during a period when that party heads the administration.

Under the existing laws, OPIC retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. If the Office of Special Counsel has initiated an investigation under 5 U.S.C. §1214 (“Investigation of prohibited personnel practices; corrective action”), however, according to 5 U.S.C. §1214(f), OPIC must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, please contact OPIC’s EEO Office, Human Resources Management or the Department of Legal Affairs. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Website—www.eeoc.gov and the OSC Website— www.osc.gov. You may also consult OPIC’s EEO Website at <http://intranet/eo/index.htm>

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. §2302(d).