

# Fiscal Year 2009 Freedom of Information Act Annual Report Overseas Private Investment Corporation (OPIC)

## I. BASIC INFORMATION REGARDING REPORT

1. For information concerning this report, you may contact:

Nichole Cadiente  
Administrative Counsel  
OPIC  
1100 New York Avenue, N.W.  
Washington, D.C. 20527  
Phone: (202) 408-6297      Email: [Nichole.Cadiente@opic.gov](mailto:Nichole.Cadiente@opic.gov)

2. You may access this report on OPIC's web site: [www.opic.gov](http://www.opic.gov)
3. You may obtain a paper copy of this report by contacting the official named above.

## II. MAKING A FOIA REQUEST

1. FOIA requests are received by OPIC at its office located at the address stated above. A request may be made by, (1) mailing a written request to the official at the address stated above, (2) faxing a request to (202) 408-0297, or (3) sending an email to [foia@opic.gov](mailto:foia@opic.gov).
2. OPIC makes every effort to respond to FOIA requests within the statutory 20-day timeframe. Many requests are answered within one or two days. However, responses to requests for project documents generally require more time. In addition, OPIC's response may be delayed by a need to obtain clarification from a requester on the scope of the request. OPIC's records are made available to the public to the greatest extent possible, in keeping with the spirit of the FOIA. This includes providing reasonably segregable information from records that also contain information that may be withheld under the FOIA. However, the soundness and viability of many of OPIC's programs depend in large measure upon the submission of full and reliable commercial, financial, technical and business information by applicants for OPIC assistance. Further, the willingness of those applicants to provide such information depends on OPIC's ability to hold it in confidence. Consequently, except as provided by law, information provided to OPIC in confidence will not be disclosed without the submitter's review.

## III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. **Agency-specific acronyms:**

OPIC—the Overseas Private Investment Corporation

## 2. Definitions of terms used in this Report:

- a. **Administrative Appeal**—a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number**—the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog**—the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component**—for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation**—the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute**—a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request**—a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for

processing and direct response to the requestor. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant**—an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial**—an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number**—the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing**—a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
  - i. **Expedited Processing**—an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
  - ii. **Simple Request**—a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
  - iii. **Complex Request**—a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Grant/Partial Denial**—in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal**—a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfected Request**—a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

- o. **Processed Request or Processed Administrative Appeal**—a request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days**—the lowest and highest number of days to process requests or administrative appeals.
- q. **Time Limits**—the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions of the nine FOIA exemptions:

- a. **Exemption 1**: classified national defense and foreign relations information
- b. **Exemption 2**: internal agency rules and practices
- c. **Exemption 3**: information that is prohibited from disclosure by another federal law
- d. **Exemption 4**: trade secrets and other confidential business information
- e. **Exemption 5**: inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6**: information involving matters of personal privacy
- g. **Exemption 7**: records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8**: information relating to the supervision of financial institutions
- i. **Exemption 9**: geological information on wells

**IV. EXEMPTION 3 STATUTES**

*OPIC did not rely upon any Exemption 3 Statutes to withhold information in FY 2009.*

**V. FOIA REQUESTS**

**A. Received, Processed and Pending FOIA Requests**

Number of Requests Pending as of Start of FY 2008	Number of Requests Received in FY 2009	Number of Requests Processed in FY 2009	Number of Requests Pending as of End of Fiscal Year
0	38	37	1

**B. (1) Disposition of FOIA Requests—All Processed Requests**

Number of Full Grants	Number of Partial Grants/Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									Total
			No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *See chart below	
13	9	2	9	0	1	2	1	0	0	0	0	37

**B. (2) Disposition of FOIA Requests—“Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B(1) Chart**

*OPIC did not deny any requests based on reasons other than the ones listed above.*

**B. (3) Disposition of FOIA Requests—Number of Times Exemptions Applied**

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
0	0	0	11	7	2	0	0	0	0	0	0	0	0

**VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATION OF FOIA REQUESTS**

**A. Received, Processed and Pending Administrative Appeals**

Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
1	1	2	0

**B. Disposition of Administrative Appeals—All Processed Appeals**

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	Total
2	0	0	0	2

**C. (1) Reasons for Denial on Appeal—Number of Times Exemptions Applied**

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
0	0	0	2	1	0	0	0	0	0	0	0	0	0

**C. (2) Reasons for Denial on Appeal—Reasons Other than Exemptions**

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other
0	0	0	0	0	0	0	0	0	0	0

**C. (3) Reasons for Denial on Appeal—"Other" Reasons from Section VI, C(2) Chart**

*OPIC did not deny any appeals based on reasons other than exemptions.*

**C. (4) Response Time for Administrative Appeals**

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
16.5	16.5	11	22

**C. (5) Ten Oldest Pending Administrative Appeals**

Date of Receipt of Oldest Appeal	none
Number of Days Pending	

**VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS**

**A. Processed Requests—Response Time for All Processed Perfected Requests**

Regular Requests				Expedited Requests			
Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
10	12	<1	36	7.5	27.5	<1	94

**B. Processed Requests—Response Time for Perfected Requests in Which Information Was Granted**

Regular Requests				Expedited Requests			
Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
8	12	<1	33	13	13	13	13



**C. Processed Requests—Response Time in Day Increments**

Regular Requests

Less than 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
1	27	5	0	0	0	0	0	0	0	0	0	0	0	33

Expedited Requests

Less than 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
1	2	0	0	0	1	0	0	0	0	0	0	0	0	4

**D. Pending Requests—All Pending Perfected Requests**

Regular Requests			Expedited Requests		
Number Pending	Median Number of Days	Average Number of Days	Number pending	Median Number of Days	Average Number of Days
1 <sup>1</sup>	38	38	0	0	0

<sup>1</sup> Records requested held at National Personnel Records Center. OPIC is awaiting delivery of those records so that the request may be completed. The requester was aware of this and agreed to the extension of time necessary.

**E. Pending Requests—Ten Oldest Pending Perfected Requests**

10 <sup>th</sup> Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
									08/10/09
									38

**VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER**

**A. Requests for Expedited Processing**

Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within 10 Calendar Days
4	0	1	4	3

**B. Requests for Fee Waiver**

Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within 10 Calendar Days
0	1	1	1	1

**IX. FOIA PERSONNEL AND COSTS**

PERSONNEL			COSTS		
Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time Staff" (The sum of columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs
0	1.2	1.2	\$98,586	0	\$98,586

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

Total Amount of Fees Collected	Percentage of Total Costs
\$505.08	0.512324%

**XI. FOIA REGULATIONS**

[Link to OPIC's FOIA Regulations](#)<sup>2</sup>

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<sup>2</sup> [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=29480ce7afedfa310f161f256da26243&c=ecfr&tpl=/ecfrbrowse/Title22/22cfrv2\\_02.tpl#700](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=29480ce7afedfa310f161f256da26243&c=ecfr&tpl=/ecfrbrowse/Title22/22cfrv2_02.tpl#700)

**XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS**

**A. Backlogs of FOIA Requests and Administrative Appeals**

Number of Backlogged Requests at End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
1 <sup>3</sup>	0

**B. Consultations on FOIA Requests—Received, Processed, and Pending Consultations**

Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start</u> of Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of the <u>End</u> of the Fiscal Year
0	3	3	0

**C. Consultations on FOIA Requests—Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency**

Oldest Consultation and Number of Days Pending
None

<sup>3</sup> Same case as footnote 1.

**D. Comparison of Numbers of Requests from Previous and Current Annual Reports—Requests Received, Processed, and Backlogged**

NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
45	38	50	37
Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report		Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report	
0		1	

**E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report—Appeals Received, Processed, and Backlogged**

NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
2	1	2	2
Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report		Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report	
1		0	