Chief FOIA Officer Report 2022

EXIM
EXPORT-IMPORT BANK OF THE UNITED STATES

Helping the World Buy American
The Export-Import Bank of the United States ("EXIM" or "Agency") is an independent Executive Branch agency with a mission of supporting American jobs by facilitating the export of U.S. goods and services. It seeks to accomplish this mission by ensuring that U.S. companies, large and small, have access to the financing needed to turn export opportunities into sales. Keeping with our mission, the Agency has a strong commitment to transparency ensuring that accurate and relevant information about its activities is made available or is easily accessible by the public. Available via the EXIM website, the public can access information, Annual Reports, FOIA Logs, Country Limitation Schedules, Minutes of Meeting of the Board of Directors, Congressional Budget Justification Reports, Congressional Logs, and policies of the Office of Ethics.

Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Senior or equivalent level. Is your agency’s Chief FOIA Officer at this level?

   Yes.

2. Please provide the name and title of your agency’s Chief FOIA Officer.
Ms. Lisa V. Terry  
Senior Vice President and Chief Ethics Officer

B. FOIA Training:

3. *The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. Describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.*

The FOIA Public Liaison notifies all FOIA professionals of the annual FOIA training requirements via email. The notification also provides information on the various trainings offered by the Department of Justice. Training requirements are also discussed during team meetings. Additionally, a FOIA training reminder email is sent when training registration opens. Once training is completed each FOIA professional must inform the FOIA Public Liaison who keeps track of all trainings completed.

To emphasize the importance of the FOIA, the FOIA Office hosts live (virtual) FOIA training that is available to all EXIM employees.

4. *Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training during the reporting period such as that provided by the Department of Justice?*

Yes.

5. *If yes, please provide a brief description of the type of training attended and the topics covered.*

In FY 2021, EXIM’s FOIA professionals attended: The Department of Justice FOIA Litigation Training; Virtual Best Practices for Agencies in intelligence Community; Virtual Best Practices FOIA Administration During the Pandemic; Virtual Continuing FOIA Education; Virtual Introduction to the Freedom of Information Act; Virtual Privacy Consideration Workshop; and FOIA Exemption 4 and Exemption 5 Training. Topics discussed included Proactive Disclosures, Request Processing, Appeals, Fees, and changes to the FOIA.
6. *Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period?*

In 2021, 100% of EXIM’s FOIA professionals and staff attended and participated in FOIA training.

7. *OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting period.*

Not applicable.

8. *Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?*

Yes.

C. *Other Outreach:*

9. *Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding the Administration of FOIA?*

No, FOIA professionals did not engage in any outreach this fiscal year. However, we did maintain an open dialogue with requesters to discuss any aspect of their requests and to answer any questions.
D. Other Initiatives:

10. Describe any efforts your agency has taken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.

EXIM employees are informed of their FOIA obligation as a part of EXIM’s new employee “On Boarding” process. In addition, the FOIA Office routinely meets with components within the Agency to discuss different aspects of the FOIA process, specifically how to conduct a reasonable search and how to accurately document the search. Also, we provide Annual FOIA Training to non-FOIA professionals. In FY21, FOIA training was held virtually through Microsoft Teams.

11. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here?

The presumption of openness is essential to EXIM’s FOIA practice. The FOIA Team consults routinely with EXIM components that created/generated records to discuss the records' significance and determine any actual harm in disclosure. The Agency continues to release documents proactively on the EXIM website to provide transparency and public access to records. These records include environmental impact documents, historical documents, Quarterly Deal Data and US Export Data by State.

Section II: Steps Taken to Ensure that Your Agency Has Effective System in Place for Responding to Requests

EXIM receives most requests electronically, either via email through the National FOIA portal, through a dedicated FOIA mailbox, through a fillable form on EXIM’s website or the PAL Portal. The PAL Portal allows requesters to submit a request electronically and to check the status of their FOIA requests. Because EXIM is a small agency and its FOIA office is centralized, headquarters is the only component within EXIM which receives FOIA requests. Each member of EXIM’s FOIA Team, including the Chief FOIA Officer, receives new requests via email or an email notification when a new request is submitted directly into the system via PAL or the National FOIA
Portal. This ensures that the initial request is seen by all team members. The FOIA Team logs in any requests received via direct mail or email and assigns a tracking number. The tracking number is provided to the requester via direct mail or email. Requests submitted through the PAL Portal or the National FOIA portal are logged automatically and assigned a tracking number, which is automatically provided to the requester via email. The FOIA Team analyzes each request to determine whether the request contains sufficient information to clearly identify the records in question. If the requested records are not clearly identifiable, the FOIA Public Liaison contacts the requester via telephone or email to seek clarification. If the request is overly broad, the FOIA Public Liaison works with the requester to determine their specific need so the scope of the request can be clearly defined, and the request can be processed in the most expeditious manner possible.

EXIM utilizes a FOIA-specific software package, which allows us to efficiently track and process requests in a timely manner. All members of EXIM's centralized FOIA Team have access to this software. Members of EXIM's FOIA and IT Teams regularly consult with the software vendor's IT staff to discuss and manage updates and improvements. Additionally, the FOIA Public Liaison reports weekly to the Chief FOIA Officer.

The FOIA Public Liaison provides weekly updates to the Chief FOIA Officer on the status of the FOIA program. The FOIA Team meets regularly to review the status of outstanding requests and discuss any issues as they arise, and to set and adjust goals if necessary. A weekly meeting is scheduled with the FOIA Team and the Chief FOIA Officer.

1. For Fiscal Year 2021, what was the average number of days your agency reported for adjudicating request for expedited processing?

   In FY 2021, EXIM reported 2.57 days for adjudicating expedited processing requests.

2. If your agency’s average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A of your agency’s Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take
to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulation in accordance with the FOIA Improvement Act 2016? If not, what is your agency’s plan to update your regulations?

No, EXIM Bank did not update its FOIA regulations. However, EXIM has drafted updated FOIA Regulations that are currently under review and scheduled to be submitted to the Federal Register for posting during the 2nd Quarter of the fiscal year.

4. Standard Operating Procedures (SOPs) generally document your agency’s internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency’s institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

EXIM has internal SOPs for FOIA administration that require updating.

5. If no, please provide a timeline for when your agency plans to develop or update its SOPs.

Yes, EXIM is currently updating its SOP and plans to have it reviewed and approved by September 30, 2022.

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?
No, first party requesters can only access records through the Privacy Act or the FOIA process, unless they are a current EXIM employee. Current EXIM employees can access records related to their personnel files directly from EXIM's Office of Human Capital.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

No, opportunities for an alternative means of access for first-party records does not exist or is needed at this time. EXIM is a small agency and doesn't receive a lot of first-party request, so the current process works well and allows us to respond promptly to requesters. At this time, EXIM has not considered an alternative means to provide first-party records.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing, and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

No, in FY 2021, EXIM did not conduct a formal self-assessment. As noted, however, the FOIA Team meets with the Chief FOIA Officer weekly throughout the year to discuss effectiveness of the program and improvements that can be implemented.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2021.

Approximately 6 requesters sought assistance from the agency's FOIA Public Liaison.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?
Yes, EXIM reviews its staffing capabilities to ensure we have enough resources to respond to FOIA demands. EXIM currently has 4 full-time FOIA professionals to meet this demand.

Section III: Steps Taken to Increase Proactive Disclosures

1. *Please describe what steps your agency takes to identify, track and post (a)(2) proactive disclosures.*

   The FOIA Office manually tracks any proactive releases made by the Agency. To identify records to proactively release, the FOIA office tracks all requests as they come into the Agency and identifies any request for information that has been submitted three times. These records are flagged for proactive disclosure. The Chief FOIA Officer is notified of the required posting of the records; the records are then posted to the website by the IT Department. The FOIA Office also reaches out to other offices within the Agency to identify records that would be of interest to the public that can be proactively disclosed. This allows the Agency to identify records outside of the FOIA Office that can be disclosed by posting on the website. Additionally, various EXIM offices and divisions routinely post information to the website. These posting are also tracked by the FOIA Office.

2. *Provide examples of material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance 5 U.S.C. § 552(a)(2)(D).*

Materials EXIM has proactively disclosed and posted on the Web site:

- FOIA Annual Reports- [https://www.exim.gov/about/foia/annual-reports](https://www.exim.gov/about/foia/annual-reports)
- EXIM Annual Reports- [https://www.exim.gov/news/reports/annual-reports](https://www.exim.gov/news/reports/annual-reports)
- FOIA Log- The FOIA log is now being provided in excel format to make it more accessible to the public. To access the FOIA log, just click the link below scroll down to item 3 on the Frequently Requested Records and Proactive Disclosures page-
https://www.exim.gov/about/foia/frequently-requested-records-and-proactive-disclosures
• FOIA Stats- https://www.exim.gov/about/foia/foia-stats
• Country Limitation Schedule- https://www.exim.gov/tools-for-exporters/country-limitation-schedule
• Minutes of the Board of Directors and Credit Committee https://www.exim.gov/news/minutes
• The Chief FOIA Officer Reports- https://www.exim.gov/about/foia/chief-foia-officer-reports
• Budget Justification Reports- https://www.exim.gov/about/foia/frequently-requested-records-and-proactive-disclosures
• Congressional Budget Justification Reports- https://www.exim.gov/about/foia/frequently-requested-records-and-proactive-disclosures
• Quarterly Data- https://data.exim.gov/
• Library Digital Archives- http://www.digitalarchives.exim.gov/
• Export Data-USA- https://customermap.exim.gov/index.cfm

3. Does your agency disseminate common types of material outside of FOIA, including online databases where the public may access them?

Yes, EXIM Bank posts Quarterly Deal Data to FOIA.gov.

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency’s website?

Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable format, to the extent feasible. If not posting in open formats, please explain why and note any challenges.
EXIM continuously updates its website and FOIA page to make information easily accessible to the public and more user friendly. Content on the website is provided either in HTML, PDF, XML and CSV formats and all content is Section 508 Compliant. Electronic forms are provided to allow requesters or users to apply for services online. EXIM also continues to update the downloadable statistical data relating to EXIM transactions.

6. *Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.*

Yes, the FOIA Office reaches out to other offices within the Agency to identify records that would be of interest to the public that can be proactively disclosed. This communication is done via email.

**Section IV: Steps Taken to Greater Utilize Technology**

1. *Has your agency reviewed its FOIA-related technology capabilities to identify resources needed to respond to current and anticipated FOIA demands?*

   No, in FY 2021, EXIM did review its FOIA-related technology capabilities.

2. *Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.*

   EXIM did obtain any new technology to support its FOIA program. However, EXIM did purchase an API to receive new requests directly into the system from the National FOIA Portal.

3. *OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA website to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?*
Yes.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

No, EXIM did not post 4 quarterly reports to its website and to FOIA.gov. In FY 2021, EXIM posted the first 3 quarterly reports to its website and when the new tool became available on foia.gov, we posted the 4th quarterly report directly to foia.gov.

5. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.

Yes, EXIM was successful in posting all quarterly reports and the information appears on FOIA.gov.

6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and if available, for your agency's Fiscal Year 2021 Annual FOIA Report.


Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs
A. Simple Track:

1. *Does your agency utilize a separate track for simple requests?*

   Yes.

2. *If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?*

   No. EXIM’s overall average number of days to process simple requests is 44.24.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track.*

   In 2021, 45 percent of the requests processed were placed on the simple track.

4. *If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?*

   Not applicable.

B. Backlogs:

**Backlogged Requests**

5. *If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?*

   No, the backlog increased by 5 requests, from 20 to 25.
6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

No, EXIM did not process more requests in FY 2021 than it did in FY 2020. In FY 2020 EXIM processed 96 requests and 55 in FY 2021. Many of the requests received in FY 2021 required the review of a higher-than-normal volume of voluminous records. Also, EXIM Bank is currently involved in two FOIA litigation matters, which took precedent over our regular FOIA queue and pulled employee resources to work mostly on the litigation, which is still ongoing.

7. If your agency's request backlog increased during Fiscal Year 2021, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

In FY 2021, EXIM continued its efforts to clean-up of the FOIA backlog. This effort resulted in the closure of 8 backlogged cases, with the oldest dating back to fiscal year 2015. Also, the FOIA office provided interim responses for 8 of the reported backlogged requests that remain open. In addition, the number of complex requests received increased and many of these requests are for voluminous email records that will take a significant amount of time to process. Additionally, the agency lost a staff member in the Office of General Counsel who was responsible for ensuring timely review and approval of FOIA responses for release.

8. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2021.

In FY 2021, 39 percent of requests made up the backlog.

Backlogged Appeals
9. If your agency had a backlog of appeals at the close of the Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

EXIM did not have a backlog of appeals at the close of FY 2021.

10. If not, according to section XII.E1 of the Annual FOIA Report did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

Not applicable.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why, and describe the causes that contributed to your agency not being able to reduce its backlog.

Not applicable.

12. If you had an appeal backlog, please report the percentage of the appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2021.

EXIM did not have an appeal backlog at the close of FY 2021.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 were asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if the agency was able to achieve backlog reduction in Fiscal Year 2021?

Not applicable.
14. If your agency had a backlog of more than 1000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022?

Not applicable.

D. Status of Ten Oldest Requests, Appeals, and Consultations:

Ten Oldest Requests

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E of in your Fiscal Year 2020 Annual FOIA Report?

No.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in section VII.E of your Fiscal Year 2020 Annual FOIA Report.

In FY 2021, EXIM closed 6 of the ten oldest requests and provided interim responses for the requests that remain open.

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

EXIM's FOIA Team meets regularly to monitor the FOIA case queue, discuss any issues that arise with any case and set processing goals for backlogged cases. EXIM continues to provide interim responses for backlog requests.

Ten Oldest Appeals
18. In Fiscal Year 2021, did your agency close the ten oldest appeals in Section VI.C.5. of your Fiscal Year 2020 Annual FOIA Report?

Not applicable.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report.

EXIM did not have any pending appeals at the end of FY 2021.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

Not applicable.

Ten Oldest Consultations

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C your Fiscal Year 2020 Annual FOIA Report?

Not applicable.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C of your Fiscal Year 2020 Annual FOIA Report.

EXIM did not have any pending consultations at the end of FY 2021.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:
23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2021.

EXIM had four main challenges in closing the ten oldest requests: the requests required the search of multiple divisions within EXIM; they involved the review of complex or voluminous records; required application of the of submitter notice process pursuant to EXIM's regulation; and EXIM was involved in two FOIA litigation matters. The records for the ten oldest requests include transaction records, email correspondences regarding the transactions, and EXIM's due diligence and decision-making processes. These records also contain personal and confidential business information and information of interest to the submitter, which require an additional review under the submitter notice process. Also, the FOIA litigations took precedent over the FOIA queue and the FOIA Office had to reallocate employee resources to work on the cases. The two senior FOIA professionals worked mainly on the litigations over the course of several months. These challenges add significant time to the processing of these requests. Despite these challenges, EXIM provided interim responses to all the oldest requests that remain open.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Not applicable.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those ten oldest requests, appeals, and consultations during Fiscal Year 2022.

EXIM will close out the remaining of the ten oldest FOIA requests by continuing to review documents and provide interim responses on a rolling basis.

F. Success Stories:
The Export-Import Bank continues to show its commitment to transparency and the principles of Open Government. In FY 2021, EXIM’s FOIA professionals were able to close 8 of its oldest pending FOIA requests, 6 of which were the 10 oldest. Additionally, EXIM closed 55 FOIA cases (many of which involved voluminous records), provided 20 interim responses, 3 consults and 2 appeals.