March 12, 2018 to March 11, 2019 Chief FOIA Officer Report
for the Overseas Private Investment Corporation

OPIC Chief FOIA Officer: Dev Jagadesan, Deputy General Counsel for Administration

Section 1: 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 least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level? No. As a small agency, OPIC has only two Presidentially Appointed and Senate confirmed (PAS) positions, that of President/CEO and Executive Vice President. Neither of these individuals has FOIA experience and OPIC has therefore assigned the role to a Senior Level (SL) executive employee who is a Senior Executive Service (SES) equivalent and has FOIA expertise. (Note that OPIC is exempt from the SES).

2. Please provide the name and title of your agency's Chief FOIA Officer. Dev Jagadesan, Deputy General Counsel for Administration.

B. FOIA Training

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

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered. Training ranged from general overview sessions to discussion of recent developments in FOIA policy.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period. 100%

6. 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 year. OPIC added a FOIA Assistant position in 2019. That individual was unable to attend training before the close of the reporting period. Due to the short time period for that individual to sign up for and attend training, they are not included in the number above.

V. Outreach

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration. FOIA Staff communicate directly with requesters

as a regular part of processing and take into account any comments or queries submitted regarding general FOIA administration.

D. Other Initiatives

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA. FOIA Staff met with managers and other staff to discuss the FOIA program generally, as well as to provide guidance on specific disclosures.

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

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

1. For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2018 Annual FOIA Report. 5.8

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc. OPIC completed a review of its FOIA program to assess the volume of FOIA requests and pages processed over the years. This assessment led to the decision to increase FOIA staffing, which will take effect in Fiscal Year 2019.

4. 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 2018 (please provide a total number or an estimate of the number). 0

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area. One of the most consistent issues OPIC faces in processing requests is in dealing with large requests which often require several hours of search from multiple departments as well as dozens of third party notices to international entities. As a small agency, OPIC relies on its staff to shift their workloads appropriately to handle FOIA tasks alongside their other duties. This adds extra complexity to compliance with FOIA timelines, especially in these larger requests. In order to minimize these issues, OPIC's FOIA Office communicates with requesters to narrow requests or to create electronic search strings when possible, to prioritize items in multi-part requests, and to adjust response expectations accordingly. As a small agency with limited resources,

OPIC has found that this upfront time spent in communication with requesters lowers overall processing time more than it increases it and that it also fosters better relationships and patience with requesters.

Section III: Steps Taken to Increase Proactive Disclosures

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material. OPIC posts copies of its annual report (which include audited financial statements), http://www.opic.gov/media-connections/annual-reports; brief summaries of all board approved projects, http://www.opic.gov/opic-action/all-project-descriptions; summaries of any environmentally or socially sensitive projects prior to approval http://www.opic.gov/doing-business-us/OPIC-policies/environment/documents; and provides many other types of information on its website.

2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)). OPIC's FOIA Officer reviews all released records and flags any frequently requested records.

3. 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.

4. If yes, please provide examples of such improvements. OPIC website and social media outlets continue to be improved based on internal and external feedback.

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area. The FOIA Office consults with departments that are looking to make more information proactively available to the public, however the information belongs to the department and such disclosures are ultimately at the discretion of that department.

Section IV: Steps Taken to Greater Utilize Technology

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead. OPIC utilizes electronic searches whenever a request is conducive to the use of search strings. The Office of the Chief Information Officer provides support to the FOIA Office in running server-side or complex searches. When a request is not conducive to an electronic search, but may be readily modified for electronic search, the FOIA Office will suggest modification of the request.

2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites 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.

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018? Yes.

4. 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 2019.

5. 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 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report. All of OPIC's FOIA reporting, including the raw data reports, can be found at https://www.opic.gov/who-we-are/foia-annual-reports.

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area. OPIC strives to use technology to improve FOIA efficiencies whenever possible, including the use of electronic searches and communicating via e-mail. The greatest challenge in this area is in resources. As a small agency with a relatively small FOIA task load, the FOIA Office does not have access to FOIA specific software and instead uses general software for FOIA processing.

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, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018? No, it was 21.75 business days due to one consultation that extended the response time by 215 business days. OPIC processing on the request took 23 business days. If processing on that request had been recorded as 23 business days rather than 238, OPIC's simple track average would be 15.78 business days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track. 68%

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?

B. Backlogs

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018? No.

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017? No.

7. If your agency's request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
An increase in the number of incoming requests.

A loss of staff.
An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
Any other reasons – please briefly describe or provide examples when possible.
The biggest hurdle in the timely processing of requests has been the length of time it takes to obtain a consultation response from other agencies. For example, the oldest pending request OPIC had at the start of Fiscal Year 2018 was held open for an additional 650 business days pending a consultation response from another agency. OPIC processing took 118 business days, but total processing was 768 business days. This was OPIC's longest running request in at least nine years. In addition to the long waiting time, OPIC expended a significant amount of resources following up with the agency in order to get confirmation of receipt, a tracking number, and status updates as none of these items was provided proactively by the agency.

The next biggest hurdle in processing requests has been the steady increase in complexity of requests. For example, OPIC was required to send out approximately fifty third party submitter notices for one request. Some of these were notices to the same party, as due to the volume of records third party review needed to be split into batches. Further complicating the notice process, many of the third parties OPIC and OPIC projects work with are foreign entities meaning that locating contacts and clearly explaining the FOIA exemptions and implications can add significant delay to processing.

Another constant hurdle has been the voluminous and duplicative nature of e-mails. For example, the second and third oldest pending requests OPIC had at the start of Fiscal Year 2018 required the processing of over 20,000 pages of e-mails, about two-thirds of which were duplicates or non-responsive records which were manually removed. For comparison, over the last five years, OPIC typically released approximately 20,000 pages of records over the entire year. Prior to 2014, OPIC released less than 7,000 pages per year.

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 2018. 15%.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018? No backlog.

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?

11. If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
An increase in the number of incoming appeals.
A loss of staff.
An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
Any other reasons – please briefly describe or provide examples when possible.

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A." N/A.

C. Backlog Reduction Plans

13. In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018? Not applicable.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

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

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report? Yes.

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 2017 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

17. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal? 0.

18. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests. OPIC focused FOIA Office resources on closing its oldest pending requests as listed in Section F.

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report? No pending appeals.

20. 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 VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

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

TEN OLDEST CONSULTATIONS

22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report? No pending consultations.

23. 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 2017 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018. Please see comments to question 7 of this section.

25. 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.

26. 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 2018.

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- Focused FOIA Office resources on closing oldest pending requests.
    - Tasked additional staff to follow up on consultations pending with other agencies every two weeks until a response was received.
    - Directed FOIA Officer to concentrate on completing the two most complex pending requests.