

Standard Confidentiality Letter

DATE

NAME

ADDRESS

Re: AP00000XX - [Country] ([Project])

Ladies and Gentlemen:

This letter is in response to your request that the Export-Import Bank of the United States (Ex-Im Bank) respect the confidentiality of certain information to be submitted to Ex-Im Bank **[and its financial advisors]** in connection with the project referred to above. Laws and regulations that control Ex-Im Bank's handling of proprietary business information afford substantial protection to your confidential commercial and financial information. Ex-Im Bank will endeavor to restrict the disclosure of such information to the fullest extent permissible under federal information disclosure laws.

As a U.S. Government agency, Ex-Im Bank and its officers and employees are bound by the Trade Secrets Act, 18 U.S.C. §1905. The Act is a criminal statute which requires that officers and employees of the Federal Government do not engage in the unauthorized disclosure of "information [that] concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association."

Access rights to Federal records are governed by the Freedom of Information Act ("FOIA"), 5 U.S.C. §552. Under FOIA, Ex-Im Bank may be requested to release information in its possession or control. FOIA specifically exempts from disclosure, however, confidential commercial and financial information. 5 U.S.C. §552(b)(4). Commercial and financial information is considered to be "confidential" when its release would be likely either to harm the submitter's commercial interests or to affect the Agency's ability to obtain information in the future.

Ex-Im Bank also follows Executive Order 12600, dated June 23, 1987 (the "Order"), which prescribes procedures for handling FOIA requests for confidential business information.

When a government agency intends to disclose commercial information for which the submitter has a reasonable expectation of confidentiality—yet which, in the agency's opinion, is not exempt from disclosure under the FOIA—the Order requires the agency to provide the submitter an opportunity to demonstrate why the information should be withheld from disclosure. To facilitate the process of identifying confidential commercial and financial material, we suggest that any document containing such information be clearly marked in capital letters: “CONFIDENTIAL INFORMATION.”

Please be advised that your designation of information as confidential and your objection to disclosure are not dispositive for purposes of FOIA and other applicable laws. The Order requires Ex-Im Bank to reserve the final decision on release, without prejudice to any other recourse available to you under the law. Thus, after careful review and consideration of any objections to disclosure, Ex-Im Bank will disclose those portions of the submission that, in our considered judgment, are ineligible for exemption under FOIA. If Ex-Im Bank intends to release commercial or financial information over a submitter's objection, Ex-Im Bank will provide written notice to the submitter of such decision at least ten days prior to the intended disclosure date to give the submitter a reasonable opportunity to seek legal intervention.

Again, Ex-Im Bank and its officers and employees take very seriously the confidentiality of your commercial and financial information and will endeavor to protect it to the fullest extent permissible under federal law. If you have any further questions or concerns, please contact the undersigned at (202) 565-**[ext]**.

Sincerely,

[Name of Ex-Im Bank Attorney]