

Monday through Friday, excluding public holidays.

(b) *Information to include.* All requests under this section must:

(1) Be in writing and be signed by the requester;

(2) Be clearly labeled "PRIVACY ACT APPEAL" on both the letter and the envelope;

(3) Clearly reference the determination being appealed; and

(4) Provide support for your information, including documentation provided in the initial determination and any additional information.

(b) *Appeal determination.* The Executive Vice President will advise the individual of OPIC's determination within thirty (30) business days. If the Executive Vice President is unable to provide a determination within thirty business days, the individual will be advised in writing of the reason before the expiry of the thirty business days.

(1) *Overturn initial determination.* If the Executive Vice President grants the appeal and overturns the initial determination in whole or part, the individual will be notified in writing and the requested action taken promptly along with any other steps OPIC would have taken had the initial determination come to the same result as the appeal.

(2) *Uphold initial determination.* If the Executive Vice President denies the appeal and upholds the initial determination in whole or in part, the individual will be notified in writing and provided with an explanation. In cases where a denial of amendment or correction is upheld, the individual will also be notified of the ability to file a statement of disagreement under paragraph (c) of this section.

(c) *Statement of disagreement.* If an individual is denied a request to amend a record in whole or in part and that denial is upheld on appeal, the individual may file a statement of disagreement. Statements of disagreement must be concise, clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. The statement of disagreement will be placed in the system of records that contains the disputed record and the record will be marked to indicate that a statement of disagreement has been filed. The statement of disagreement will be attached to any future releases of the disputed record and may be accompanied by a concise statement from OPIC explaining its denial.

#### **§ 707.26 Notification of court-ordered disclosures.**

(a) Except in cases under paragraph (c) of this section, when a record

pertaining to an individual is required to be disclosed by court order, OPIC will make reasonable efforts to provide notice of this to the individual. If OPIC cannot locate the individual, notice will be deemed sufficient for this part if it is mailed to the individual's last known address. The notice will contain a copy of the order and a description of the information disclosed.

(b) Notice will be given within a reasonable time after OPIC's receipt of the order, unless the order is not a matter of public record. In those cases, the notice will be given only after the order becomes public.

(c) Notice is not required if disclosure is made from an exempt system of records.

#### **§ 707.27 Fees.**

(a) The fees to be charged for making copies of any records provided to an individual under this part are ten (10) cents per page. No fees will be charged for search or review.

(b) At its discretion, OPIC may grant a request for special services such as mailing copies by means other than first class mail or providing document certification. All special services provided to the requester will be provided at cost.

(c) OPIC considers any request under the Privacy Act to be an authorization to incur up to \$25.00 in fees unless a request states otherwise.

(d) OPIC may condition access to records or copies of records upon full payment of any fees due.

(e) All payments under this part must be in the form of a check or bank draft denominated in U.S. currency. Checks should be made payable to the order of the United States Treasury and mailed or hand delivered to OPIC at 1100 New York Avenue NW., Washington, DC 20527.

#### **Subpart C—Exceptions**

##### **§ 707.31 Specific exemptions.**

The provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) shall not apply to any system of records maintained by OPIC that is—

(a) Subject to the provisions of 5 U.S.C. 552(b)(1);

(b) Composed of Investigatory material compiled for law enforcement purposes other than those specified in 5 U.S.C. 552a(j)(2);

(c) Required by statute to be maintained and used solely as statistical records;

(d) Composed of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian

employment, military service, Federal contracts or access to classified information, but only to the extent that OPIC may determine, in its sole discretion, that the disclosure of such material would reveal the identity of the source who, subsequent to September 27, 1975, furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to such date, under an implied promise to such effect; and

(e) Composed of testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service and OPIC determines, in its sole discretion, that disclosure of such materials would compromise the fairness of the testing or examination process.

#### **§ 707.32 Special exemption.**

Nothing in this part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

#### **§ 707.33. Other rights and services.**

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Dated: January 28, 2014.

**Nichole Cadiente,**

*Administrative Counsel, Department of Legal Affairs.*

[FR Doc. 2014-03039 Filed 2-12-14; 8:45 am]

**BILLING CODE P**

## **OVERSEAS PRIVATE INVESTMENT CORPORATION**

### **22 CFR Part 713**

**[No. TOUHY-2013]**

**RIN 3420-AA02**

### **Production of Nonpublic Records and Testimony of OPIC Employees in Legal Proceedings**

**AGENCY:** Overseas Private Investment Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule implements revisions to the Overseas Private Investment Corporation's ("OPIC") regulations governing the production of nonpublic testimony or records for court proceedings, commonly known as Touhy regulations after *Touhy v. Ragen*.

**DATES:** This rule is effective February 14, 2014.

**FOR FURTHER INFORMATION CONTACT:** Nichole Cadiente, Administrative

Counsel, (202) 336-8400, or [foia@opic.gov](mailto:foia@opic.gov).

**SUPPLEMENTARY INFORMATION:** The amendment of Part 713 clarifies that the Touhy regulations must be complied with prior to the serving of a subpoena.

OPIC published a proposed rule on December 4, 2013 in 78 FR 72850 and invited interested parties to submit comments. OPIC received no comments and therefore submits the revisions to Part 713 as a final rule.

**Regulatory Flexibility Act (5 U.S.C. 601 et seq.)**

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the head of OPIC has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The rule amends regulations governing the procedures for a third party to request government records and testimony in litigation, and does not economically impact Federal Government relations with the private sector. Further, under these regulations, OPIC may only charge the actual cost for records, based upon FOIA regulations in Part 706, and the fees set by the court for witness testimony. OPIC is authorized to charge actual costs for its services based on 31 U.S.C. 9701.

**Executive Order 12866**

OPIC is exempted from the requirements of this Executive Order per the Office of Management and Budget's October 12, 1993 memorandum. Accordingly, OMB did not review this final rule. However this rule was generally composed with the principles stated in section 1(b) of the Executive Order in mind.

**Unfunded Mandates Reform Act of 1995 (2 U.S.C. 202-05)**

This final rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995. Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*)

This final rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United State based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects in 22 CFR Part 713**

Administrative practice and procedure, Courts, Government Employees, Subpoenas.

For the reasons stated in the preamble the Overseas Private Investment Corporation amends 22 CFR part 713 as follows:

**PART 713—PRODUCTION OF NONPUBLIC RECORDS AND TESTIMONY OF OPIC EMPLOYEES IN LEGAL PROCEEDINGS**

■ 1. The authority citation for part 713 continues to read as follows:

**Authority:** 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 702, 18 U.S.C. 207; 18 U.S.C. 641; 22 U.S.C. 2199(d); 28 U.S.C. 1821.

■ 2. Revise § 713.2 to read as follows:

**§ 713.2 When does this part apply?**

This part applies if you want to obtain nonpublic records or testimony of an OPIC employee for a legal proceeding. It does not apply to records that OPIC is required to release, records which OPIC discretionarily releases under the Freedom of Information Act (FOIA), records that OPIC releases to federal or state investigatory agencies, records that OPIC is required to release pursuant to the Privacy Act, 5 U.S.C. 552a, or records that OPIC releases under any other applicable authority.

■ 3. Revise § 713.3 to read as follows:

**§ 713.3 How do I request nonpublic records or testimony?**

To request nonpublic records or the testimony of an OPIC employee, you must submit a written request as described in § 713.4 to the Vice-President/General Counsel of OPIC. If you serve a subpoena on OPIC or an OPIC employee before submitting a written request and receiving a final determination, OPIC will oppose the subpoena on the grounds that you failed to follow the requirements of this part.

■ 4. Revise § 713.5 to read as follows:

**§ 713.5 When should I make my request?**

Submit your request at least 45 days before the date you need the records or testimony. If you want your request processed in a shorter time, you must explain why you could not submit the request earlier and why you need such expedited processing. OPIC retains full discretion to grant, deny, or propose a new completion date on any request for expedited processing. If you are

requesting the testimony of an OPIC employee, OPIC expects you to anticipate your need for the testimony in sufficient time to obtain it by deposition. The Vice-President/General Counsel may well deny a request for testimony at a legal proceeding unless you explain why you could not have used deposition testimony instead. The Vice-President/General Counsel will determine the location of a deposition, taking into consideration OPIC's interest in minimizing the disruption for an OPIC employee's work schedule and the costs and convenience of other persons attending the deposition.

■ 5. Revise the section heading of § 713.10 to read as follows:

**§ 713.10 Definitions.**

\* \* \* \* \*  
Dated: January 28, 2014.

**Nichole Cadiente,**

*Administrative Counsel, Department of Legal Affairs.*

[FR Doc. 2014-03037 Filed 2-12-14; 8:45 am]

BILLING CODE 3195-01-P

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1987**

[Docket Number: OSHA-2011-0859]

RIN 1218-AC58

**Procedures for Handling Retaliation Complaints Under Section 402 of the FDA Food Safety Modernization Act**

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Interim final rule.

**SUMMARY:** This document provides the interim final regulations governing the employee protection (whistleblower) provision found at section 402 of the FDA Food Safety Modernization Act (FSMA), which added section 1012 to the Federal Food, Drug, and Cosmetic Act. This interim rule establishes procedures and time frames for the handling of retaliation complaints under FSMA, including procedures and time frames for employee complaints to the Occupational Safety and Health Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary's final decision.