

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

November 10, 2015

The Honorable Elizabeth L. Littlefield  
President and CEO  
Overseas Private Investment Corporation  
1100 New York Avenue, NW  
Washington, DC 20527

Dear Ms. Littlefield:

The Committee is conducting oversight on the approval, review, risk management, and due diligence processes of the Overseas Private Investment Corporation (OPIC). The Committee is concerned about the apparent lack of oversight over OPIC, which, according to the *Associated Press*, “[d]espite [OPIC’s] global mission, . . . flies under the radar.”<sup>1</sup> Even with more than 200 employees, a portfolio of nearly \$18 billion, and approximately “\$2.96 billion in business in 2014,”<sup>2</sup> the *AP* article reports that OPIC “rarely undergoes deep scrutiny” and quotes you as describing it as the “best-kept secret in the government.”<sup>3</sup> With reported administrative expenses in 2012 of \$54.9 million,<sup>4</sup> the Committee seeks to determine whether the agency has adequate controls in place to protect taxpayer dollars and individuals impacted by OPIC’s work in its financial products, political risk insurance, investment funds, and Enterprise Development Network portfolios.

A recent report by the Competitive Enterprise Institute notes that “OPIC is institutionally ill-suited to its mission and harms poor people around the world.”<sup>5</sup> OPIC’s “investment decisions are heavily politicized,” and those investments, “while well-intentioned, fail to offer real beneficial results.”<sup>6</sup> As a result, “many OPIC-financed projects, rather than help the least well-off, end up enriching the politically connected.”<sup>7</sup>

OPIC’s inability to effectively monitor and oversee its operations may have resulted in inappropriate investments, some of which included significant environmental and human rights issues.<sup>8</sup> The shortcomings of the Buchanan Renewables Project in Liberia (the Buchanan Renewables Project) demonstrate the need for more stringent oversight over OPIC’s operations.<sup>9</sup> OPIC’s own Office of Accountability (OA) stated in its September 2014 report on the failures of the Buchanan Renewables Project that “an overarching lesson that emerges from this review is the need for OPIC to have robust screening, due diligence, risk mitigation, and monitoring systems in place

<sup>1</sup> Ronnie Greene & Jonathan Paye-Layleh, *US loans fueled insider deal, failed power plan in Liberia*, ASSOCIATED PRESS, Jan. 27, 2015, <http://www.nytimes.com/aponline/2015/01/27/world/africa/ap-af-dark-deals-expanded.html>.

<sup>2</sup> Ryan Young, Competitive Enterprise Institute, *The Case against the Overseas Private Investment Corporation*, ONPOINT at 1, Sept. 24, 2015, <https://cei.org/sites/default/files/Ryan%20Young%20-%20The%20Case%20Against%20OPIC.pdf> (citing Overseas Private Investment Corp., 2014 Annual Report at 4).

<sup>3</sup> Greene, *supra*, note 1.

<sup>4</sup> Young, *supra*, note 2 (citing SHAYERAH ILIAS AKHTAR, CONG. RESEARCH SERV., 98-567, THE OVERSEAS PRIVATE INVESTMENT CORPORATION: BACKGROUND AND LEGISLATIVE ISSUES 5 (2013), <https://www.fas.org/sgp/crs/misc/98-567.pdf>).

<sup>5</sup> Young, *supra*, note 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

which are proportionate to the risks that could adversely affect the achievement of desired development outcomes.”<sup>10</sup>

The OA’s September 2014 report also got Congress’s attention. In the explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act of 2015 (the Congressional Statement), Congress directed you as President of OPIC to sign a memorandum of understanding with the United States Agency for International Development’s Office of Inspector General (USAID OIG) to include inspection and audit plans for fiscal year 2015.<sup>11</sup> The Congressional Statement also directed OPIC to fill the vacant OA director position, and further stipulated that the President of OPIC “provide to the Committees on Appropriations OPIC management’s plan to implement the recommendations of the September 2014 report on Liberia.”<sup>12</sup> To date, you have not complied with all of these directives.

The Committee is concerned about OPIC’s apparent failure to comply with the explicit directives in the Congressional Statement. Not only have you not filled the OA’s director position, but the agency has no immediate plans to hire a new director and will instead rely on personnel within OPIC’s management.<sup>13</sup> With respect to implementing the recommendations of OA’s September 2014 report, OPIC’s March 2015 response to the Congressional Statement noted that the agency would “require more frequent monitoring of projects . . . and more robust grievance mechanisms that enable those who may be harmed by a project to raise concerns.”<sup>14</sup> This vague statement does not adequately meet Congress’ directive that you implement the recommendations of this report.

To assist the Committee to better understand how OPIC carries out its mission while safeguarding taxpayer funds, and to determine whether adequate processes and safeguards are in place, please produce the following documents and information as soon as possible, but no later than 5:00 p.m. on November 24, 2015:

1. All documents and communications referring or relating to OPIC’s current monitoring and risk management mechanisms pertaining to its financial products, political risk insurance, investment funds, and Enterprise Development Network portfolios.
2. All documents and communications referring or relating to the initiatives and steps taken by OPIC to improve its internal processes and due diligence procedures following the September 2014 OA report on the Buchanan Renewables Project.
3. All documents and communications referring or relating to the mechanisms OPIC currently uses to address and resolve problems that arise in ongoing projects.
4. All documents and communications referring or relating to OPIC’s compliance with the directives set forth in the Congressional Statement.
5. A copy of the memorandum of understanding you signed as President of OPIC with the USAID OIG, as directed by the Congressional Statement.

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<sup>10</sup> Overseas Private Investment Corp., Office of Accountability, *OA Review: Buchanan Renewable Energy Projects in Liberia* at 8 (Sept. 2014), <https://www.opic.gov/sites/default/files/files/OA%20Buchanan%20Report%281%29.pdf>.

<sup>11</sup> Explanatory Statement, Consolidated and Further Continuing Appropriations Act of 2015, 160 Cong. Rec. H9307, H9954 (daily ed. Dec. 11, 2014).

<sup>12</sup> *Id.* at H9954.

<sup>13</sup> Accountability Counsel, *Congressional Action on OPIC & Liberia* (“OPIC told Accountability Counsel that it had no immediate plans to hire a new Director and would instead rely on personnel within its management team to handle complaints . . .”), <http://www.accountabilitycounsel.org/policy/existing-mechanisms/opic/congressional-action-on-opic-liberia/> (last visited Nov. 5, 2015).

<sup>14</sup> Overseas Private Investment Corp., *Report in Response to the FY15 Consolidated and Further Appropriations Act (H.R. 83)*, Mar. 16, 2015, [http://www.accountabilitycounsel.org/wp-content/uploads/2014/12/2015.03.17-OPIC-Report-to-Congress\\_response-to-FY15-Approps-Legis.pdf](http://www.accountabilitycounsel.org/wp-content/uploads/2014/12/2015.03.17-OPIC-Report-to-Congress_response-to-FY15-Approps-Legis.pdf).

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Please also provide a briefing to Committee staff on how OPIC approves, supervises, and reviews OPIC-financed projects and ensures that taxpayer money is used efficiently and responsibly. The briefing should occur as soon as possible, but no later than 5:00 p.m. on November 17, 2015.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority staff in room 2157 of the Rayburn House Office Building and the Minority staff in room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Cordell Hull of the Committee Staff at (202) 225-5074 to make arrangements for a briefing, or if you have any questions about this request. Thank you for your attention to this matter.



Jason Chaffetz  
Chairman

Sincerely,



Jim Jordan  
Chairman  
Subcommittee on Health Care,  
Benefits and Administrative Rules



Mark Meadows  
Chairman  
Subcommittee on  
Government Operations

cc: The Honorable Elijah E. Cummings, Ranking Member  
Committee on Oversight and Government Reform

The Honorable Matt Cartwright, Ranking Member  
Subcommittee on Health Care, Benefits and Administrative Rules

The Honorable Hal Rogers, Chairman  
Committee on Appropriations

The Honorable Nita Lowey, Ranking Member  
Committee on Appropriations

Enclosure

## Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENTHOUR, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,  
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,  
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,  
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.