# U.S. Overseas Private Investment Corporation

*How the Office of Accountability Can Help Your Business*

## What is the Office of Accountability?

The Office of Accountability (OA) was created in 2005 in order to provide OPIC clients and project-affected communities with access to a transparent and fair avenue for addressing disputes that may arise around OPIC-supported projects.

## What Is the OA's Problem-Solving Service?

The OA's problem-solving service seeks to build trust and otherwise create conducive conditions for involved parties to resolve concerns and conflicts about perceived environmental or social impacts associated with OPIC-supported projects. For eligible requests, the OA will convene a problem-solving initiative for participants to develop a practical and mutually acceptable solution. Depending on the situation, this may include:

- ✓ convening a dialogue table, which is typically mediated by an independent professional hired by the OA;
- ✓ facilitating direct negotiations between the parties;
- ✓ commissioning a fact-finding investigation to address technical issues; and/or
- ✓ soliciting appropriate authorities within the host country government to become constructively engaged.

Ideally, the problem-solving process results in a written agreement between the parties.

## How Can the OA Help Manage Risk?

OPIC and its clients frequently invest in risky environments, including post-conflict and post-disaster situations. Despite these challenges, social or environmental conflicts around the construction or operation of projects supported by OPIC are relatively rare.

Clearly, the best approach for all parties is to avoid project-related conflicts in the first place. However, they can occasionally arise for different reasons despite the best intentions of OPIC, its clients and local communities. There is a wide range of reputational, financial, and liability risks associated with local conflicts (See the addendum to this guide).

The private sector typically has various options for managing the risks associated with local disputes. These include documentation of compliance with local permits and standards, legal remedies, project grievance and compensation mechanisms, and political risk insurance. When these are ineffective, costly, or unduly time-consuming, the OA's problem-solving service (provided without charge) may constitute an attractive option that does not preclude other remedies. Filing a request for problem-solving services before positions harden and become intractable may eventual the cost associated with an unresolved local dispute.

## How Effective Are Problem-Solving Services?

The OA's problem-solving service provides value under appropriate circumstances, but is not a panacea. It is completely voluntary, so its effectiveness in a given case is a function of both parties' willingness to participate in the process and to stay with it until a resolution is achieved. Depending on the complexity of the situation, this can take several months or more. A recently completed problem-solving case by the OA took about one year from the time the case was submitted by the local community to the point when the OA concluded the problem-solving phase of the case.

The problem-solving process aims to identify practical, preventative or remedial actions that improve welfare rather than to find fault or fix blame. In order to build trust with the parties, the OA takes no position on whether any allegations of harm are accurate. Rather, it seeks to transform the relationship between OPIC's client and the affected community so that the dispute can be resolved. The problem-solving process is designed to allow the community and the company to express their respective interests and understand the other's interests.

The OA operates separately from OPIC's financing operations so that it can effectively and impartially implement its functions. The Director of the OA reports directly to OPIC's President and CEO, and keeps the Board of Directors informed about the OA's activities.

## How Does the OA Determine Eligibility?

Upon receiving a problem-solving request, the OA Director first determines if the request is eligible. The OA accepts requests for service that meet all of the following basic criteria:

- ✓ The request concerns an OPIC-supported project (through finance, insurance, or an investment fund), including transactions in which OPIC is actively performing due diligence but which have not yet been Board-approved.
- ✓ The OPIC client and the community have already tried to resolve their concerns without success.
- ✓ If a request is submitted to the OA by an external party on behalf of either a community or an OPIC client, the OA needs documentation that the external party is an authorized representative.
- ✓ If the request is initiated by a project-affected community, it must allege that material, direct, and adverse impacts have resulted from or may result from the project.

In addition, the issues raised in the request must relate to the environment, labor rights, and/or human rights – the OA does not address commercial disputes or allegations of fraud or corruption. The OA's eligibility criteria protect OPIC clients from frivolous or malicious requests or those brought about to gain competitive advantage.

## Where Can I Get More Information?

If you are unsure whether problem-solving services are appropriate, you can discuss your situation with the OA Director, Keith Kozloff, who can be reached at:

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Overseas Private Investment Corporation
1100 New York Avenue, NW
Washington, DC 20527
Tel. 1-202-336-8543, 202-312-2128
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E-mail: accountability@opic.gov or keith.kozloff@opic.gov.

To learn more about the OA, visit its webpage at: http://www.opic.gov/doing-business/accountability.

## Addendum: Costs and Risks Related to Unresolved Conflict

The costs of conflict between companies and communities, workers, or other local stakeholders can be significant, though they may be overlooked or not identified as such. These costs can potentially fall in a range of categories:

***Lost Productivity*** can occur from a forced shutdown or partial disruption of operations; subcontractor and supplier costs from delays; foregone opportunities for future expansion; opportunity cost of staff time required to managing the dispute; delays in deliveries/supplies; and greater regulatory scrutiny.

***Capital Losses*** can result if a conflict damages property, otherwise decreases property value or forces a sale. The conflict may also make it harder to retain existing lenders, raise new equity capital, or maintain share value.

***Reputational Risks*** may result in higher expenditures on public relations to counter negative information; market share losses through impacts on brand; and declining investor confidence.

***Personnel Costs*** may take the form of hiring specialized staff dedicated to conflict management; low morale, absenteeism and stress-related effects; work stoppages or slowdown; higher cost compensation packages for new hires and retention.

***Redress Costs*** include court-ordered payments and fines; court administrative costs, and legal fees.

***Security Costs*** may increase due to contracting for additional security services, installing monitoring and security fences, and enhancing training programs.

***Insurance-Related Costs*** may increase due to higher premium charges, higher deductibles, or reduced coverage.