



October 5, 2023

## **Comments: U.S. International Development Finance Corporation’s Draft Transparency Policy**

Thank you for the opportunity to comment on the U.S. International Development Finance Corporation’s (DFC) draft [Transparency Policy](#). Friends of the Earth United States (FOE US) highly supports the publication of such a policy to enhance the ability of civil society and impacted communities to understand DFC’s role in the projects DFC supports, but the current draft is sparse on details and specific requirements. FOE US recommends the following improvements:

### **Specific Requirements for Financial Intermediaries**

FOE US supports the requirements of section 3.2 for DFC to provide additional information on financial intermediaries, but additional details and specific requirements are needed to make this section meaningful. It is unclear what the “additional information” is that DFC provides for financial intermediaries. Currently, there is little information provided on the projects that financial intermediaries support. Even though the Environmental and Social Policy and Procedures (ESPP) require the disclosure of documentation and information regarding subprojects, FOE US is not aware of any place that houses this information on DFC’s website. Neither DFC’s active projects page, nor its environmental and social impacts assessments page include information on subprojects as far as FOE US is aware. Therefore, FOE US recommends that DFC’s transparency policy specifically articulates the following requirements for projects financed by DFC-supported financial intermediaries or funds and all subprojects:

- Environmental and social impact assessments for all of these subprojects should be posted on the relevant DFC webpage (currently <https://www.dfc.gov/what-we-offer-eligibility-our-investment-policies/environmental-and-social-impact-assessments>);
- DFC should provide the public an opportunity to comment on such projects just as DFC allows for comments on projects that it directly supports;
- All monitoring and other documentation for subprojects should be made publicly available on a DFC webpage;
- DFC should account for the greenhouse gas emissions and other pollutants of its subprojects in its annual reports and for its cap on the emissions of DFC’s portfolio; and
- All subprojects should be listed on DFC’s active project page currently <https://www.dfc.gov/what-we-do/active-projects>) with an explanation of which financial intermediary or fund is financing the project.

### **Earlier Disclosure of Investments Pre-Approval**

FOE US strongly supports the disclosure of information on investments as early as possible. Discussions of potential projects often occur years before a project is listed on DFC’s website. By the time that DFC makes a public acknowledgement that a project is under consideration, that project is usually far along on the application process. Finding out so late in the process about



DFC's consideration of a project makes it very difficult for civil society and project impacted communities to have a meaningful impact on the board decision. The reasons are often given as business confidential information and pre-decisional deliberation for not releasing this information earlier on in the process. These excuses should not prevent DFC from providing simply the name of the project and location, so that civil society and impacted communities could provide information much earlier in the process. Unfortunately, there are no other development finance institutions that provide information earlier on this process (that FOE US is aware of), but this is an opportunity for DFC to be a transparency leader and live the ideals that they espouse.

The timeframes and coverage of sections 3.3 and 5.0 are insufficient to provide meaningful input from civil society and impacted communities. The current requirements to disclose the project information summary seven days before a board vote is way too short of a timeframe. Providing at least 30 days' notice (and preferably longer) that a board vote is occurring would allow for greater oversight. Moreover, these sections should also specifically include financial intermediaries, especially since a large percentage of DFC support is provided through financial intermediaries.

### **Incorporation of the Sunshine Act**

DFC's transparency policy should specifically incorporate the requirements of the Sunshine Act. The Trump administration exempted DFC from the Sunshine Act in April 2020, despite the fact that the DFC's predecessor agency, the Overseas Private Investment Corporation (OPIC) was subject to the Act. On April 13, 2020, without any prior public notice or comment opportunity, the DFC announced in the federal register the final decision to exempt itself from the open meeting requirements of the Sunshine Act. In this announcement, DFC claimed that the Sunshine Act no longer applied to DFC because DFC was substantially different from OPIC and was not considered an agency.

An example of why the Sunshine Act is so important is that on September 9, 2020, DFC had a board meeting that was closed to the public and was not noticed in the Federal Register. It was only listed on their website ten days or less before the board meeting. At this board meeting, DFC's board voted on the Rovuma LNG project – a liquefied natural gas development and export project in northern Mozambique. Without this notification and ability to comment, DFC approved up to \$1.5 billion in political risk insurance for the project despite the increasing violence, negative impacts on local communities, and massive greenhouse gas emissions.

The Sunshine Act was enacted in 1976 and is, as its legislative history states, "founded on the proposition that the government should conduct the public's business in public." With limited exceptions, every portion of every agency meeting shall be open to public observation under the Sunshine Act. In addition, under the Act, an agency must publicly announce at least a week in advance of a meeting the meeting's subject matter, time, and place. All meetings must also have transcripts or detailed minutes of the meeting made available to the public, as well as relevant documents or records. These basic requirements would ensure that the public is made aware of



public hearings and board votes on upcoming projects and understand the decisions the board makes. Without these requirements, the board is able to operate with little oversight from the public or impacted communities.

Prior to the creation of DFC, FOE US took part in public hearings and provided comments and engaged around board decisions on projects and policies at OPIC. FOE US relied heavily on notification in the Federal Register to learn about upcoming public hearings as well as the proposed projects and policies that the OPIC board would be voting on. These notifications allowed civil society to properly prepare our comments, weigh in on the relevant topics, inform the public about pending decisions and upcoming opportunities to engage, and place op-eds and blogs on pending projects in a timely fashion. Open access to these meetings and deliberations is in the public. Thanks to the Sunshine Act, FOE US was able to receive notes from the OPIC board meeting that approved support for the Vaca Muerta fracking projects in Argentina. These notes revealed the concerns that were raised and dismissed one by one on the project. Reinstating the Sunshine Act would allow for greater transparency at DFC as was had at OPIC.

*For Further Information Contact: Kate DeAngelis, Friends of the Earth US, [kdeangelis@foe.org](mailto:kdeangelis@foe.org)*