

§ 1710.13

(b) Because of the lack of requests to date for material required to be indexed, the Director has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). However, OFHEO will provide a copy of such indexes to a member of the public upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

§ 1710.13 Requests for records.

(a) *Addressing requests.* Requests for records in the possession of OFHEO shall be made in writing. The envelope and the request both should be clearly marked "FOIA Request" and addressed to: FOIA Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Fourth Floor, Washington, DC 20552. A request improperly addressed will be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (a) of § 1710.17 of this subpart until it is received, or would have been received with the exercise of due diligence, by the FOIA Officer. Records requested in conformance with this subpart and which are not exempt records may be obtained in person or by mail as specified in the request. Records to be obtained in person will be available for inspection or copying during business hours on a regular business day in the office of OFHEO.

(b) *Description of records.* Each request must reasonably describe the desired records in sufficient detail to enable OFHEO personnel to locate the records with a reasonable amount of effort. A request for a specific category of records will be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of OFHEO operations.

(1) Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(2) If the FOIA Officer determines that a request does not reasonably de-

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scribe the records sought, he or she will either advise the requester what additional information is needed to locate the record or otherwise state why the request is insufficient. The FOIA Officer will also extend to the requester an opportunity to confer with OFHEO personnel with the objective of reformulating the request in a manner which will meet the requirements of this section.

§ 1710.14 Responses to requests.

(a) *Response to initial request.* The FOIA Officer of OFHEO is authorized to grant or deny any request for a record and to determine appropriate fees.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal Government agency, OFHEO will refer the request to the other agency for response. If OFHEO refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Creating records.* If a person seeks information from OFHEO in a format that does not currently exist, OFHEO will make reasonable efforts to provide the information in the format requested. OFHEO will not create a new record of information to satisfy a request.

(d) *No responsive record.* If no records are responsive to the request, the FOIA Officer will so notify the requester in writing.

§ 1710.15 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has granted a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operation of OFHEO. The response letter will also inform the requester of any

fees to be charged in accordance with the provisions of subpart D of this part.

(b) *Form of notice denying a request.* When the FOIA Officer denies a request in whole or in part, he or she will so notify the requester in writing. The response will be signed by the FOIA Officer and will include—

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 1710.16 of this subpart and a description of the requirements of that section.

§ 1710.16 Appeals of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments advanced in support of disclosure of the requested record. Both the envelope and the letter of appeal must be clearly marked “FOIA Appeal.” An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (b) of § 1710.17 until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of OFHEO on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies, giving rise to a right of judicial review under 5 U.S.C. 552(a)(4).

§ 1710.17 Time limits.

(a) *Initial request.* Following receipt of a request for records, the FOIA Officer will determine whether to comply with the request and will notify the requester in writing of his or her determination within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the request.

(b) *Appeal.* A written determination on an appeal submitted in accordance with § 1710.16 of this subpart will be issued within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the appeal. When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(c) *Extension of time limits.* The time limits specified in either paragraph (a) or (b) of this section may be extended in unusual circumstances up to a total of 10 days (excluding Saturdays, Sundays, and legal holidays) after written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. As used in this paragraph, *unusual circumstances* means that there is a need to—

(1) Search for and collect the requested records from facilities that are separate from the office processing the request;

(2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or