

§ 1702.9

12 CFR Ch. XVII (1–1–05 Edition)

§ 1702.9 Appeals of the initial decision to deny access to or amendment of individual records.

Any individual may appeal the initial denial, in whole or in part, of a request for access to or amendment of his/her record. To appeal, the individual must submit a written appeal, within 30 business days following receipt of written notification of denial, to the Privacy Act Appeals Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Both the envelope and the appeal request should be marked "Privacy Act Appeal." The appeal should include—

(a) The information specified for requests for access in §1702.3(b)(3) or for requests for amendment in §1702.7, as appropriate;

(b) A copy of the initial denial notice; and

(c) Any other relevant information for consideration by the Privacy Act Appeals Officer.

[63 FR 8844, Feb. 23, 1998. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1702.10 Decision to grant or deny appeals.

(a) *Notification of decision.* Within 30 business days following receipt of the appeal, the Privacy Act Appeals Officer shall send a written notification of the decision to grant or deny to the individual making the appeal. The Privacy Act Appeals Officer may extend the 30-day notification period for good cause. If the time period is extended, the Privacy Act Appeals Officer shall inform in writing the individual making the appeal of the reason for the extension and the expected date of the final decision.

(b) *Appeal granted.* If the appeal for access is granted, in whole or in part, the Privacy Act Appeals Officer shall provide the individual with reasonable time to inspect the requested records at OFHEO during normal business hours or mail a copy of the requested records to the individual. If the appeal for amendment is granted, in whole or in part, the requested amendment shall be made. A copy of the amended record shall be provided to all prior recipients of the subject record in accordance with §1702.12(b).

(c) *Appeal denied.* If the Privacy Act Appeals Officer denies, in whole or in part, the appeal for access or amendment, he/she shall include in the written notification of the reasons for the denial an explanation of the right to seek judicial review of the final decision, and, with respect to an appeal for amendment, the right to submit a statement of disagreement under paragraph (d) of this section.

(d) *Statements of disagreement and explanation.* (1) Upon receipt of a decision to deny, in whole or in part, the appeal for amendment of records, the individual may file a statement with the Privacy Act Appeals Officer that sets forth his/her reasons for disagreeing with the decision. The Privacy Act Appeals Officer shall attach the statement of disagreement to the record that is the subject of the request for amendment. In response to the statement of disagreement, the Privacy Act Appeals Officer has the discretion to prepare a statement that explains why the requested amendment was not made. If prepared, the statement of explanation shall be attached to the subject record and a copy of the statement provided to the individual who filed the statement of disagreement.

(2) The Privacy Act Appeals Officer shall provide a copy of any statement of disagreement, and may provide any statement of explanation, to prior recipients of the subject record in accordance with §1702.12(b).

(e) *Right to judicial review.* If OFHEO does not comply with the notification procedures under paragraph (a) of this §1720.10 with respect to an appeal for amendment of records, the appealing individual may bring a civil action against OFHEO in the appropriate district court of the United States, as provided for under 5 U.S.C. 552a(g)(1)(A) and 552a(g)(5) before receiving the written notification of the decision.

[63 FR 8844, Feb. 23, 1998. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1702.11 Disclosure of individual records to other persons or agencies.

(a) OFHEO may disclose a record to a person or agency other than the individual about whom the record pertains

Federal Housing Enterprise Oversight

§ 1702.13

only under one or more of the following circumstances:

(1) If requested and authorized in writing by the individual.

(2) With the prior written consent of the individual.

(3) If such disclosure is required under the Freedom of Information Act.

(4) For a routine use, as defined in § 1702.2, with respect to a designated system of records as described by OFHEO in its notice of systems of records published in the FEDERAL REGISTER.

(5) Pursuant to the order of a court of competent jurisdiction.

(6) To the following persons or agencies—

(i) Officers and employees of OFHEO who have a need for the record in the performance of their duties;

(ii) The Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(iii) A recipient who has provided OFHEO with advance, adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(iv) The National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for evaluation by the Archivist of the United States to determine whether the record has such value;

(v) An agency or an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to OFHEO specifying the particular portion of the record desired and the law enforcement activity for which the record is sought;

(vi) A person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, concurrently with such disclosure, notification is transmitted to the last known address of the individual to whom the record pertains;

(vii) Either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or subcommittee of any such joint committee;

(viii) The Comptroller General, or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(ix) A consumer reporting agency in accordance with 31 U.S.C. 3711(e).

(b) Before a record is disclosed to other persons or agencies under paragraph (a) (1) or (2) of this section, the identifying information specified in § 1702.6 may be required.

[63 FR 8844, Feb. 23, 1998. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1702.12 Accounting of disclosures.

(a) OFHEO shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record, and the name and address of each person or agency to whom a disclosure was made under § 1702.11, except for disclosures made under § 1702.11(a)(3) or (a)(6)(i). OFHEO shall retain such accounting for at least 5 years or the life of the record, whichever is longer, after the disclosure for which the accounting was made.

(b) When a record has been amended, in whole or in part, or when a statement of disagreement has been filed, a copy of the amended record and any statement of disagreement must be provided, and any statement of explanation may be provided, to all prior and subsequent recipients of the affected record whose identities can be determined pursuant to the disclosure accountings required under paragraph (a) of this section.

[63 FR 8844, Feb. 23, 1998. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1702.13 Requests for accounting of disclosures.

(a) Any individual may request an accounting of disclosures of records about him/her for which an accounting is required to be maintained under § 1702.12(a) by submitting a written request to the Privacy Act Officer, Office