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Federal Housing Enterprise Oversight, 1700 G Street, NW, Fourth Floor, Washington DC 20552. Electronic appeals shall be submitted to foia_appeals_office@ofheo.gov with “FOIA Appeal” in the subject line.

(b) *Letter of appeal.* The appeal must be in writing and submitted within 30 days of receipt of the denial letter. The appeal shall be submitted in the manner described in § 1703.13, except that it shall be clearly marked “FOIA Appeal” instead of “FOIA Request.” An appeal shall 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. An improperly addressed appeal shall be deemed not to have been received for the purposes of the 20-day time period set forth in § 1703.17(b) 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). However, a requester’s refusal of OFHEO’s offer of an opportunity to limit the scope of the request or arrange an alternate time frame for processing the request shall be considered as a factor in determining whether “exceptional circumstances” exist, which permits a court in which a requester has sought judicial review, to

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grant a stay to allow OFHEO to complete its review of the records.

[63 FR 71005, Dec. 23, 1998, as amended at 65 FR 55173, Sept. 13, 2000. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1703.17 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 § 1703.16 of this subpart will be issued within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the appeal. However, determination of an appeal of a denial of expedited processing will be issued as expeditiously as practicable. 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 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. If the date specified for the extension is more than 10 days after the initial time allowed for response, OFHEO will provide the requester an opportunity to limit the scope of the request or arrange for an alternate time frame for processing the request. 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

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of separate and distinct records which are demanded in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request, or consult with various offices within OFHEO that have a substantial interest in the records requested.

(d) *Related requests.* OFHEO may aggregate multiple requests involving clearly related matters made by a single requester, or a group of requesters acting in concert, if OFHEO reasonably believes that such requests actually constitute a single request that would qualify as an “unusual circumstance.”

(e) *Expedited processing.* (1) Upon a demonstration of compelling need by the requester, OFHEO will grant a request for expedited processing of a FOIA request. If a request for expedited processing is granted, OFHEO will give the request priority and process it as soon as practicable.

(2) To show a compelling need for expedited processing, the requester shall provide a statement demonstrating that:

(i) The failure to obtain the requested records could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) The requester’s main professional occupation or activity is information dissemination and there is a particular urgency to inform the public of government activity involved in the request beyond the public’s right to know about government activity generally.

(3) The requester’s statement of compelling need must be certified to be true and correct to the best of his or her knowledge and belief and must explain in detail the basis for requesting expedited processing. The formality of the certification required to obtain expedited treatment may be waived by OFHEO in its discretion.

(4) A requester seeking expedited processing will be notified within ten (10) working days of the receipt of the request whether expedited processing has been granted. If the request for expedited processing is denied, OFHEO will act on any appeal expeditiously.

[65 FR 55173, Sept. 13, 2000. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1703.18 Special procedures for business information.

(a) *In general.* Business information provided to OFHEO by a business submitter shall not be disclosed pursuant to an FOIA request except in accordance with this section.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply:

(1) *Business information* means trade secrets or other commercial or financial information, provided to OFHEO by a submitter, which arguably is protected from disclosure under §1703.11(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Business submitter* means any person or entity which provides business information, directly or indirectly, to OFHEO and who has a proprietary interest in the information.

(c) *Designation of business information.* Submitters of business information should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under §1703.11(b)(4). Any such designation will expire 10 years after the records were submitted to the Government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(d) *Predisclosure notification.* (1) Except as is provided for in paragraph (i) of this section, the FOIA Officer shall, to the extent permitted by law, provide a submitter with prompt written notice of an FOIA request or administrative appeal encompassing its business information whenever required under paragraph (e) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the FOIA Officer provides a business submitter with the notice set forth in paragraph (e)(1) of this section, the FOIA Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under