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Subpart G—Time Limitations

§ 902.60 Initial determination.

(a) An initial determination whether or not to release a record requested under subparts D and E of this part shall be made by the Public Information Offices within 10 workdays after the receipt of a request which complies with § 902.21. Failure of the requester to comply with those provisions may toll the running of the 10 day period until the request is identified as one being made under the Act. This time limit may be extended by up to 10 workdays in accordance with § 902.62.

(b) Upon making initial determination, the Administrative Officer shall immediately notify the person making the request as to its disposition. If the determination is made to release the requested record, the Administrative Officer shall make the record promptly available. If the determination is to deny the release of the requested record, the Public Information Officer shall immediately notify the requester of the denial and shall provide the following information.

(1) The reason for the determination, including a reference to the appropriate exemption provided in subpart F of this part;

(2) The right of the request or to appeal the determination as provided in subpart H of this part; and

(3) The name and position of each person responsible for the denial of the request.

[41 FR 43143, Sept. 30, 1976, as amended at 48 FR 17354, Apr. 22, 1983]

§ 902.61 Final determination.

A determination with respect to any appeal made pursuant to subpart H of this part will be made within twenty work days after the date of receipt of the appeal. The time limit provided may be extended by up to 10 workdays in accordance with § 902.62.

§ 902.62 Extension of time limits.

(a) In unusual circumstances, the time limits prescribed in §§ 902.60 and 902.61 may be extended by written notice to the person making the request. The notice shall set forth the reasons for the extension and the date on which a determination is expected to be dispatched. Under no circumstances shall the notice specify a date that would result in an extension for more than 10 workdays.

(b) As used in this section, *unusual circumstances* means (but only to the extent reasonably necessary to the proper processing of the particular request):

(1) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(2) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(c) Any person having made a request for records under this part shall have exhausted his administrative remedies with respect to such request, if the Corporation fails to comply with the applicable time limitations set forth in this subject.

Subpart H—Procedures for Administrative Appeal of Decisions Not To Disclose Records

§ 902.70 General.

Within the time limitations of subpart G of this part, if the Administrative Officer makes a determination not to disclose a record requested under subparts D and E of this part, he shall furnish a written statement of the reasons for that determination to the person making the request. The statement shall indicate the name(s) and title(s) of each person responsible for the denial of the request, and the availability of an appeal with the Corporation. Any person whose request for a record has

been denied may submit a written appeal to the Corporation requesting reconsideration of the decision.

[41 FR 43143, Sept. 30, 1976, as amended at 48 FR 17354, Apr. 22, 1983]

§ 902.71 Forms for appeal.

Although no particular written form is prescribed for on appeal, the letter or similar written statement appealing a denial of a record shall contain a description of the record requested, the name and position of the official who denied the request, the reason(s) given for the denial, and other pertinent facts and statements deemed appropriate by the appellant. The Corporation may request additional details if the information submitted is insufficient to support an appeal.

§ 902.72 Time limitations on filing an appeal.

An appeal must be submitted in writing within thirty days from the date of receipt of the initial written denial and must contain the information requested in § 902.71.

§ 902.73 Where to appeal.

An appeal shall be addressed to the Chairman of the Board of Directors, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004.

[41 FR 43143, Sept. 30, 1976, as amended at 50 FR 45824, Nov. 4, 1985]

§ 902.74 Agency decision.

(a) The Chairman shall have sole authority to act on an appeal, which seeks to reverse an initial decision denying disclosure of a record. He shall review each appeal and provide the appellant and other interested parties with a written notice of his decision. The decision of the Chairman as to the availability of the record is administratively final.

(b) If the decision of the Chairman sustains the refusal to disclose, the notice of decision shall set forth the reasons for the refusal, including the specific exemptions from disclosure under the Act that are the bases of the decision not to disclose. The notice shall further advise the appellant that judicial review is available on complaint to the appropriate District Court of the United States, as provided in section 552(a)(4)(B) of title 5 U.S.C.

(c) As set out in § 902.61, the final decision on appeal shall be made within 20 workdays after the receipt of the appeal. An extension of this limitation is authorized as prescribed under § 902.62.

Subpart I—Fees

§ 902.80 General.

(a) This subpart prescribes fees for services performed by the Corporation under subparts D and E of this part. This subpart shall only apply to the services described herein. The fees for the service listed reflect the actual cost of the work involved in compiling requested record and copying, if necessary.

(b) A fee shall not be charged for time spent in resolving legal or policy issues.

[41 FR 43143, Sept. 30, 1976, as amended at 52 FR 26677, July 16, 1987]

§ 902.81 Payment of fees.

The fees prescribed in this part may be paid in cash or by check, draft, or postal money order made payable to the Pennsylvania Avenue Development Corporation.

[52 FR 26677, July 16, 1987]

§ 902.82 Fee schedule.

(a) *Definitions.* For purposes of this section—

(1) A *commercial use request* is a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Corporation will determine the use to which the requester will put the records sought. Where the Corporation has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Corporation will seek additional clarification before assigning the request to a specific category.