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(3) *Appeal of a denial of expedited processing*. If you are appealing a denial of your request for expedited processing, HUD will either:

(i) Agree to expedited processing of your request; or

(ii) Advise you that the decision to deny expedited processing has been affirmed, and tell you how to obtain judicial review of HUD's decision.

Subpart C—Production in Response to Subpoenas or Demands of Courts or Other Authorities

SOURCE: Redesignated at 66 FR 6973, Jan. 22, 2001.

§ 15.201 Purpose and scope.

(a) This subpart contains the regulations of the Department concerning procedures to be followed when a subpoena, order, or other demand (hereinafter referred to in this subpart as a *demand*) of a court or other authority is issued for the production or disclosure of: (a) Any material contained in the files of the Department, (b) any information relating to material contained in the files of the Department, or (c) any information or material acquired by any person while such person was an employee of the Department as a part of the performance of his or her official duties or because of his or her official status. For purposes of this subpart, the term *employee of the Department* includes current and former officers and employees of the United States appointed by or subject to the supervision of the Secretary, but does not include officers and employees covered by part 2004 of this title. Also for purposes of this subpart, *files of the Department* do not include files of the Office of Inspector General covered by part 2004 of this title.

(b) The term ''legal proceeding'' has the meaning given in § 15.301(b).

[49 FR 11160, Mar. 26, 1984, as amended at 60 FR 58456, Nov. 27, 1995; 66 FR 6973, Jan. 22, 2001]

§ 15.202 Production or disclosure prohibited unless approved by the Secretary.

(a) Any demand of a court or other authority or any request to an employee of the Department to produce any material contained in the files of the Department, or to disclose any information relating to material contained in the files of the Department, or to disclose any information or produce any material acquired as a part of the performance of the employee's official duties or because of the employee's official status for use in a legal proceeding, shall state with particularity the material sought to be obtained or the information sought to be disclosed.

(b) No employee of the Department shall comply with any such demand or request without the prior approval of the Secretary.

(c) In determining whether to grant approval for an employee of the Department to testify in a legal proceeding, the Secretary shall follow the standards set forth in subpart I.

(d) Where the demand or request seeks only the production of documents, the Department's procedure for authentricating documents by a keeper of the records shall be the Department's method for response. That authentication shall be evidence that the documents are true copies of documents in the Department's files.

[52 FR 12160, Apr. 15, 1987]

§ 15.203 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee of the Department for the production of material or the disclosure of information described in § 15.201, the employee shall immediately notify the Secretary and either the General Counsel or the appropriate Regional Counsel. The *appropriate Regional Counsel* shall mean the Regional Counsel for the Regional Office having delegated authority over the project or activity with respect to which the information is sought. If possible, the Secretary shall be notified before the

employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before the instructions from the Secretary are received, the U.S. Attorney or such other attorney as may be designated for the purpose, will appear with the employee of the Department upon whom the demand has been made, and will furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration of the Secretary. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Secretary.

[52 FR 12160, Apr. 15, 1987, as amended at 66 FR 6973, Jan. 22, 2001]

§ 15.204 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 15.203(b) pending receipt of instructions from the Secretary, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Secretary not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Toughy* v. *Ragen*, 340 U.S. 462).

[52 FR 12161, Apr. 15, 1987, as amended at 66 FR 6973, Jan. 22, 2001]

Subpart D—Testimony of Employees in Legal Proceedings

SOURCE: 52 FR 12161, Apr. 15, 1987, unless otherwise noted. Redesignated at 66 FR 6973, Jan. 22, 2001.

§ 15.301 Purpose.

(a) This subpart prescribes the policies and procedures of the Department with respect to testimony of its employees as witnesses in legal proceedings with respect to material contained in the files of the Department or information learned as part of the performance of the their official duties or because of their official status.

(b) For purposes of this subpart, the term *employee of the Department* includes current and former officers and employees of the United States appointed by or subject to the supervision of the Secretary, but does not include officers and employees covered by part 2004 of this title.

[52 FR 12161, Apr. 15, 1987, as amended at 60 FR 58457, Nov. 27, 1995]

§ 15.302 Testimony in proceedings in which the United States is a party.

(a) In any legal proceeding in which the United States is a party, an employee of the Department may not be called to testify as an expert or opinion witness by any party other than the United States, but may be called by such non-federal party to testify as to facts.

(b) Whenever, in any legal proceeding in which the United States is a party, the attorney in charge of presenting the case for the United States requests it, the Secretary shall arrange for an employee of the Department to testify as a witness for the United States.

§ 15.303 Legal proceedings among private litigants; general rule.

In any legal proceeding exclusively among private litigants, no employee of the Department may testify as an expert or opinion witness as to any matter related to his or her duties or the functions of the Department, including the meaning of Departmental documents.

§ 15.304 Legal proceedings among private litigants; subpoenas.

Whenever, in a legal proceeding exclusively among private litigants, an employee of the Department is served with a subpoena or is requested to testify, the procedures set forth in §§ 15.201through15.204 shall be applicable.

[52 FR 12161, Apr. 15, 1987. Redesignated and amended at 66 FR 6973, Jan. 22, 2001]