

§ 14.330 Decision.

The adjudicative officer shall issue an initial decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on such of the following as are relevant to the decision:

- (a) The applicant's status as a prevailing party;
- (b) The applicant's qualification as a party under 5 U.S.C. 504(b)(1)(B);
- (c) Whether the agency's position was substantially justified;
- (d) Whether special circumstances make an award unjust;
- (e) Whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and
- (f) The amounts, if any, awarded for fees and other expenses, with reasons for any difference between the amount requested and the amount awarded.

If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 14.335 Departmental review.

(a) Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the Secretary (or his or her delegate, if any) may decide to review the decision on his or her own initiative, in accordance with the Department's review or appeals procedures applicable to the underlying proceeding. If neither the applicant nor agency counsel seeks review and the Secretary (or his or her delegate, if any) does not take review on his or her own initiative, the initial decision on the application shall become a final decision of the Department in the same manner as a decision in the underlying proceeding becomes final. Whether to review a decision is a matter within the discretion of the Secretary (or his or her delegate, if any). If review is taken, the Department will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

(b) Either party may seek reconsideration of the decision on the fee application in accordance with Rule 29, 24 CFR 20.10.

§ 14.340 Judicial review.

Judicial review of final departmental decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 14.345 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to: Director, Office of Finance and Accounting, Room 2202, Department of Housing and Urban Development, Washington, DC 20410, with a copy to: Associate General Counsel for Equal Opportunity and Administrative Law, Room 10244, Department of Housing and Urban Development, Washington, DC 20410. A statement that review of the underlying decision is not being sought in the United States courts, or that the process for seeking review of the award, if initiated, has been completed, must also be included. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

PART 15—PUBLIC ACCESS TO HUD RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND TESTIMONY AND PRODUCTION OF INFORMATION BY HUD EMPLOYEES

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APPENDIX A TO PART 15—HUD FOIA READING ROOMS

AUTHORITY: 42 U.S.C. 3535(d).

Subpart A also issued under 5 U.S.C. 552.

Section 15.107 also issued under E.O. 12958, 60 FR 19825, 3 CFR Comp., p. 333.

Subparts C and D also issued under 5 U.S.C. 301.

SOURCE: 40 FR 48123, Oct. 14, 1975, unless otherwise noted.

Subpart A—Purpose and Policy

SOURCE: 66 FR 6967, Jan. 22, 2001, unless otherwise noted.

§ 15.1 What is the purpose of this part?

(a) *Subpart B of this part.* Subpart B of this part describes the procedures by which HUD makes documents available under the Freedom of Information Act (FOIA) (5 U.S.C. 552). Subpart A of this part applies to all HUD organizational

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units; however, applicability of subpart A to the Office of the Inspector General is subject to parts 2002 and 2004 of the title.

(b) *Subpart C of this part.* Subpart C of this part describes the procedures HUD follows in responding to subpoenas or demands of courts and other agencies to produce or disclose documents.

(c) *Subpart D of this part.* Subpart D of this part describes the procedures HUD follows concerning the testimony of its employees in legal proceedings.

(d) *Inapplicability of subparts B and C to Office of Inspector General.* Subparts B and C of this part do not apply to employees in the Office of the Inspector General. The procedures that apply to employees in the Office of the Inspector General are described in part 2004 of this title.

§ 15.2 What definitions apply to this part?

The following definitions apply to this part.

(a) *Terms defined in part 5 of this title.* The terms *HUD*, *Secretary*, and *Organizational unit* are defined in part 5 of this title.

(b) Other terms used in this part. As used in this part:

Business information means commercial or financial information provided to HUD by a submitter that arguably is protected from disclosure under Exemption 4 (42 U.S.C. 552(b)(4)) of FOIA.

Duplication means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (*e.g.*, magnetic tape or disk), among others.

Educational institution means:

- (1) A preschool;
- (2) A public or private elementary or secondary school;
- (3) An institution of graduate higher education;
- (4) An institution of undergraduate higher education;
- (5) An institution of professional education; or
- (6) An institution of vocational education, that primarily (or solely) operates a program or programs of scholarly research.