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APPENDIX A TO PART 15—LOCATION INFORMATION FOR HUD FOIA READING ROOMS AND CONTACT INFORMATION FOR REGIONAL COUNSEL

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.

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 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 to be followed and standards to be applied in processing demands for the production of material or provision of testimony in legal proceedings among private litigants.

(c) *Subpart D of this part.* Subpart D of this part describes the procedures to be followed and standards to be applied in processing demands for the production of material or provision of testimony in legal proceedings in which the United States is a party.

(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.

[66 FR 6967, Jan. 22, 2001, as amended at 72 FR 8581, Feb. 26, 2007]

§ 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:

Appropriate Associate General Counsel means the Associate General Counsel for Litigation or the Associate General Counsel for HUD Headquarters employees in those programs for which the Associate provides legal advice.

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Appropriate Regional Counsel means the Regional Counsel for the Regional Office having delegated authority over the project or activity with respect to which the information is sought. For assistance in identifying the Appropriate Regional Counsel, see appendix A to this part.

Authorized Approving Official means the Secretary, General Counsel, Appropriate Associate General Counsel, or Appropriate Regional Counsel.

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.

Demand means a subpoena, order, or other demand of a court or other authority that is issued in a legal proceeding and any accompanying submissions.

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.

Employee of the Department means a current or former officer or employee of the United States appointed by or subject to the supervision of the Secretary, but does not include an officer or employee covered by part 2004 of this title.

FOIA means the Freedom of Information Act (5 U.S.C. 552).

Good cause means necessary to prevent a miscarriage of justice or to promote a significant interest of the Department.

Legal proceeding includes any proceeding before a court of law or other

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authority, i.e., administrative board or commission, hearing officer, arbitrator or other body conducting a quasi-judicial or legislative proceeding.

Legal proceeding among private litigants means any legal proceeding in which the United States is not a party.

Legal proceeding in which the United States is a party means any legal proceeding including as a named party the United States, the Department of Housing and Urban Development, or any other Federal executive or administrative agency or department, or any official thereof in his official capacity.

Material means either documents or information contained in, or relating to contents of, the files of the Department or documents or information 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.

News means information that is about current events or that would be of current interest to the public.

Person means person as defined in 5 U.S.C. 551(2). It includes corporations and organizations as well as individuals.

Production refers to the provision of material by any means other than through the provision of oral testimony.

Review means the process of examining a document located in response to a request to determine whether any portion of it may be withheld, excising portions to be withheld, and otherwise preparing the document for release. Review time includes time HUD spends considering any formal objection to disclosure made by a submitter under §15.108. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

Search includes all time spent looking manually or by automated means for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

Submitter means any person or entity who provides business information, directly or indirectly, to HUD. The term

includes, but is not limited to, corporations, State governments, and foreign governments.

Testimony refers to any oral or written statements made in litigation under oath or penalty of perjury.

United States refers to the Federal Government of the United States (including the Department), the Secretary, and any employees of the Department in their official capacities.

[66 FR 6967, Jan. 22, 2001, as amended at 72 FR 8581, Feb. 26, 2007; 73 FR 72205, Nov. 26, 2008]

§ 15.3 What exemptions are authorized by 5 U.S.C. 552?

(a) The classes of records authorized to be exempted from disclosure by 5 U.S.C. 552 are those which concern matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of the Department;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Department;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Department in connection with its responsibility for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

Subpart B—FOIA Disclosure of Information

SOURCE: 66 FR 6968, Jan. 22, 2001, unless otherwise noted.

§ 15.101 What is HUD's overall policy concerning disclosing identifiable records?

HUD will fully and responsibly disclose its identifiable records and information consistent with competing public interests concerning the national security, personal privacy, agency deliberative process, and obligations of confidentiality as are recognized by FOIA. HUD will make a record available in the form or format requested, if the record is readily reproducible in that format.