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SOURCE: 76 FR 29634, May 23, 2011, unless otherwise noted.

§ 1202.1 Why did FHFA issue this regulation?

(a) The Freedom of Information Act (FOIA) (5 U.S.C. 552), is a federal law that requires FHFA and other Federal Government agencies to disclose certain Federal Government records to the public.

(b) This regulation explains the rules that FHFA and the FHFA Office of Inspector General (FHFA-OIG) both follow when processing and responding to requests for records under FOIA. It also explains what you must do to request records from FHFA or FHFA-OIG under FOIA. You should read this regulation together with FOIA, which explains in more detail your rights and the records FHFA or FHFA-OIG may release to you.

(c) If you want to request information about yourself, this is considered a first-party or Privacy Act request under the Privacy Act (5 U.S.C. 552a), and therefore you should file your request using FHFA's Privacy Act regulations at part 1204 of this title. If you file a request for information about yourself, FHFA or FHFA-OIG will process this request under both FOIA and Privacy Act in order to give you

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the greatest degree of access to any responsive material.

(d) FHFA and FHFA-OIG may make public information that they routinely publish or disclose when performing their activities without following these procedures.

(e) This regulation applies to both FHFA and FHFA-OIG.

[76 FR 29634, May 23, 2011, as amended at 77 FR 4645, Jan. 31, 2012]

§ 1202.2 What do the terms in this regulation mean?

Some of the terms you need to understand while reading this regulation are—

Appeals Officer or FOIA Appeals Officer means a person designated by the FHFA Director to process appeals of denials of requests for FHFA records under FOIA. For appeals pertaining to FHFA-OIG records, *Appeals Officer or FOIA Appeals Officer* means a person designated by the FHFA Inspector General to process appeals of denials of requests for FHFA-OIG records under FOIA.

Confidential commercial information means records provided to the Federal Government by a submitter that contain material exempt from release under Exemption 4 of FOIA, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

Days, unless stated as “calendar days,” are working days and do not include Saturdays, Sundays, and federal holidays. If the last day of any period prescribed herein falls on a Saturday, Sunday, or federal holiday, the last day of the period will be the next working day that is not a Saturday, Sunday, or federal holiday.

Direct costs means the expenses, including contract services, incurred by FHFA or FHFA-OIG, in searching for, reviewing and/or duplicating records to respond to a request for information. In the case of a commercial use request, the term also means those expenditures FHFA or FHFA-OIG actually incurs in reviewing records to respond to the request. Direct costs include the cost of the time of the employee performing the work, the cost of any computer searches, and the cost of

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operating duplication equipment. Direct costs do not include overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

Employee, for the purposes of this regulation, means any person holding an appointment to a position of employment with FHFA or FHFA-OIG, or any person who formerly held such an appointment; any conservator appointed by FHFA; or any agent or independent contractor acting on behalf of FHFA or FHFA-OIG, even though the appointment or contract has terminated.

Fee Waiver means the waiver or reduction of fees if the requester can demonstrate that certain statutory standards are met.

FHFA means the Federal Housing Finance Agency and includes its predecessor agencies, the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB).

FHFA-OIG means the Office of Inspector General for FHFA.

FOIA Officer and Chief FOIA Officer are persons designated by the FHFA Director to process and respond to requests for FHFA records under FOIA.

FOIA Official is a person designated by the FHFA Inspector General to process requests for FHFA-OIG records under FOIA.

FOIA Public Liaison is a person who is responsible for assisting requesters with their requests.

Office of Finance means the Office of Finance of the Federal Home Loan Bank System or any successor thereto.

Readily reproducible means that the requested record or records exist in electronic format and can be downloaded or transferred intact to a computer disk, tape, or another electronic medium with equipment and software currently in use by FHFA or FHFA-OIG.

Record means information or documentary material FHFA or FHFA-OIG maintains in any form or format, including electronic, which FHFA or FHFA-OIG—

- (1) Created or received under federal law or in connection with the transaction of public business;
- (2) Preserved or determined is appropriate for preservation as evidence of

operations or activities of FHFA or FHFA-OIG, or because of the value of the information it contains; and

(3) Controls at the time it receives a request for disclosure.

Regulated entities means the Federal Home Loan Mortgage Corporation and any affiliate thereof, the Federal National Mortgage Association and any affiliate thereof, and the Federal Home Loan Banks.

Requester means any person seeking access to FHFA or FHFA-OIG records under FOIA. A requester falls into one of three categories for the purpose of determining what fees may be charged. The three categories are—

- (1) Commercial;
- (2) News media, scientific institution or educational; and
- (3) Other.

Search time means the amount of time spent by or on behalf of FHFA or FHFA-OIG in attempting to locate records responsive to a request, whether manually or by electronic means, including but not limited to page-by-page or line-by-line identification of responsive material within a record or extraction of electronic information from electronic storage media.

Submitter means any person or entity providing confidential information to the Federal Government. The term “submitter” includes, but is not limited to corporations, state governments, and foreign governments.

Unusual circumstances means the need to—

(1) Search for and/or collect records from agencies, offices, facilities, or locations that are separate from the office processing the request;

(2) Search, review, and/or duplicate a voluminous amount of separate and distinct records in order to process a single request; or

(3) Consult with another agency or among two or more components of FHFA or FHFA-OIG that have a substantial interest in the determination of a request.

[76 FR 29634, May 23, 2011, as amended at 77 FR 4645, Jan. 31, 2012]

§ 1202.3 What information can I obtain through FOIA?

- (a) *General.* FHFA and FHFA-OIG prohibit employees from releasing or