



FEDERAL HOUSING FINANCE BOARD

12 CFR -- Banks and Banking CHAPTER IX

SUBCHAPTER B -- FEDERAL HOUSING FINANCE BOARD ORGANIZATION AND OPERATIONS

PART 910 – FREEDOM OF INFORMATION ACT REGULATION

<u>Section</u>	<u>Page</u>
910.1 Definitions	1-2
910.2 Records Available to the Public	3
910.3 Requests for Records	4
910.4 Finance Board Response to Requests for Records	4-5
910.5 Records Not Disclosed	5-7
910.6 Disclosure of Federal Home Loan Bank Examination Reports	7
910.7 Records of Financial Regulatory Agencies Held by the Finance Board	7
910.8 Appeals	7-11
910.9 Fees	

Authority: 5 U.S.C. 552; 52 Fed. Reg. 10012 (March 27, 1987).

§ 910.1 Definitions.

For purposes of this part:

Agency has the meaning set forth in 5 U.S.C. § 552(f)(1).

Duplication means the process of making a copy of a record in order to respond to a FOIA request, including paper copies, microfilm, audio-video materials, and computer diskettes or other electronic copies.

Financial regulatory agency means the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration, or a state officer, agency, supervisor, or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a financial institution, including an insurance company.

FOIA means the Freedom of Information Act, as amended (5 U.S.C. § 552).



PART 910: FREEDOM OF INFORMATION ACT

§ 910.1 Definitions (continued).

FOIA Officer means the Finance Board employee who is authorized to make determinations as provided in this part. The mailing address for the FOIA Officer is Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

Record means information or documentary material the Finance Board maintains in any form or format, including an electronic form or format, which the Finance Board:

- (1) Made 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 Finance Board operations or activities or because of the value the information it contains; and
- (3) Controls at the time it receives a request.

Requester means any person, including an individual, corporation, firm, organization, or other entity, who makes a request to the Finance Board under FOIA for records.

Review means the process of examining a record to determine whether all or part of the record may be withheld, and includes redacting or otherwise processing the record for disclosure to a requester. It does not include time spent:

- (1) Resolving legal or policy issues regarding the application of exemptions to a record; or
- (2) At the administrative appeal level, unless the Finance Board determines that the exemption under which it withheld records does not apply and the records are reviewed again to determine whether a different exemption may apply.

Search means the time spent locating records responsive to a request, manually or by electronic means, including page-by-page or line-by-line identification of responsive material within a record.

Unusual circumstances means the need to:

- (1) Search for and collect records from establishments that are separate from the office processing the request;
- (2) Search, review, and 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 the Finance Board that have a substantial interest in the determination of a request.

Working days do not include Saturdays, Sundays, and legal public holidays.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.2 Records Available to the Public.

(a) *General.* (1) It is the policy of the Finance Board to respond promptly to all FOIA requests.

(2) The Finance Board may disclose records that were previously published or disclosed or are customarily furnished to the public in the course of the performance of official duties without complying with this part. These records include, but are not limited to, the annual report the Finance Board submits to Congress pursuant to section 2B(d) of the Act (12 U.S.C. § 1422b(d)), press releases, Finance Board forms, and materials published in the FEDERAL REGISTER.

(3) Except as provided in the Privacy Act (5 U.S.C. § 552a), the Finance Board's Privacy Act regulation (12 C.F.R. part 913), or paragraph (a)(2) of this section, the Finance Board shall not disclose records except in accordance with the requirements of this part.

(b) *Reading room.* (1) Subject to sections 910.5 through 910.7, the following records shall be available for public inspection and copying in the Finance Board reading room from 9:00 a.m. to 4:00 p.m. each working day:

(i) Final opinions or orders of the Finance Board in the adjudication of cases.

(ii) A record of the final votes of each member of the Board of Directors in every Finance Board proceeding.

(iii) Statements of policy and interpretations adopted by the Finance Board that are not published in the FEDERAL REGISTER.

(iv) Administrative staff manuals and instructions to staff that affect a member of the public.

(v) Records previously disclosed to any requester pursuant to this part which, because of the nature of their subject matter, the Finance Board has determined will likely be the subject of subsequent requests for substantially the same records, and a general index thereof.

(vi) Current indices that provide identifying information about all matters issued, adopted, or promulgated by the Finance Board.

(vii) The report the Finance Board submits to the Attorney General pursuant to 5 U.S.C. § 552(e).

(2) The Finance Board shall make each reading room record created on or after November 1, 1996 available by computer telecommunications or other electronic means, such as on computer diskettes or on the Finance Board's Internet website, found at <http://www.fhfb.gov>.

(3) The Finance Board shall assess fees for searching, reviewing, or duplicating reading room records in accordance with section 910.9.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.3 Requests for Records.

(a) *Request requirements.* Requests for access to, or copies of, Finance Board records shall be in writing and addressed to the FOIA Officer. Each request shall include the following:

(1) A description of the requested record that provides sufficient details to enable the Finance Board to locate the record with a reasonable amount of effort;

(2) The requester's full name, mailing address, and a telephone number where the requester can be reached during normal business hours;

(3) A statement that the request is made pursuant to FOIA; and

(4) At the discretion of the requester, a dollar limit on the fees the Finance Board may incur to respond to the request for records. The Finance Board shall not exceed such limit.

(b) *Incomplete requests.* If a request does not meet all of the requirements of paragraph (a) of this section, the FOIA Officer may advise the requester that additional information is needed. If the requester submits a corrected request, the FOIA Officer shall treat the corrected request as a new request.

§ 910.4 Finance Board Response to Requests for Records.

(a) *Response deadline.* Subject to section 910.9(f), within 20 working days of receipt of a request meeting the requirements of section 910.3(a) and any extensions of time under paragraph (c) of this section, the FOIA Officer shall:

(1) Determine whether to grant or deny the request in whole or in part;

(2) Notify the requester in writing of the determination and the reasons therefor; and

(3) Make the records, if any, available to the requester.

(b) *Denials.* If the FOIA Officer denies the request in whole or in part, the notice required under paragraph (a)(2) of this section shall state that the FOIA Officer is the person responsible for the denial, the denial is not a final agency action, and the requester may appeal the denial under section 910.8.

(c) *Extensions of time.* In unusual circumstances, the FOIA Officer may extend the time limit in paragraph (a) of this section for a period not to exceed 10 working days by notifying the requester in writing of:

(1) The reasons for the extension;

(2) The date on which a determination is expected; and



§ 910.4 Finance Board Response to Requests for Records (continued).

(c)(3) The opportunity for the requester to either limit the scope of the request so that the FOIA Officer may process it in accordance with paragraph (a) of this section, or arrange an alternative time frame for processing the request or a modified request.

(d) *Expedited processing.* (1) The FOIA Officer shall process a request for records as soon as practicable if it is determined that expedited processing is appropriate or the requester demonstrates a compelling need. To demonstrate a compelling need, a requester shall submit a written application certified to be true and correct to the best of the requester's knowledge and belief to the FOIA Officer. The application shall state that:

(i) The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a requester who is primarily engaged in disseminating information, such as a representative of the news media as defined in section 910.9(a)(4)(iv), there is urgency to inform the public concerning actual or alleged Finance Board activity.

(2) Within 10 working days of receipt of an application for expedited processing that meets the requirements of paragraph (d)(1) of this section, the FOIA Officer shall determine whether to grant or deny the application and notify the requester in writing of the determination.

(3) A requester may appeal the denial of an application for expedited processing by submitting a written application stating the grounds for the appeal to the FOIA Officer. The Finance Board shall expeditiously determine whether to grant or deny the appeal and shall notify the requester in writing of the determination, the name and title or position of the person responsible for the determination, and of the provisions for judicial review of this final action under 5 U.S.C. § 552(a)(4) and (6).

(e) *Providing responsive records.* The FOIA Officer shall provide one copy of a record to a requester in any form or format requested if the record is readily reproducible by the Finance Board in that form or format by regular U.S. mail to the address indicated in the request unless other arrangements are made, such as taking delivery of the document at the Finance Board. At the option of the requester and upon the requester's agreement to pay fees in accordance with section 910.9, the FOIA Officer shall provide copies by facsimile transmission or other express delivery methods.

§ 910.5 Records Not Disclosed.

(a) *Records exempt from disclosure.* Except as otherwise provided in this part, the Finance Board shall not disclose records 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.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.5 Records Not Disclosed (continued).

(a)(2) Related solely to the Finance Board's internal personnel rules and practices.

(3) Specifically exempted from disclosure by a statute other than FOIA if such statute requires the record to be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of records to be withheld.

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

(5) Inter- or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the Finance Board.

(6) Personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) 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, any private institution, or a Bank, which furnished information on a confidential basis, and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security 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 Finance Board, a Bank, or a financial regulatory agency.

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



PART 910: FREEDOM OF INFORMATION ACT

§ 910.5 Records Not Disclosed (continued).

(b) *Reasonably segregable portions.* (1) The Finance Board shall provide a requester with any reasonably segregable portion of a record after redacting the portion that is exempt from disclosure under paragraph (a).

(2) The Finance Board shall make a reasonable effort to estimate the volume of redacted information and provide that information to the requester unless providing the estimate would harm an interest protected by the exemption under which the redaction is made.

(3) The Finance Board shall indicate the estimated volume of redacted information on the released portion of the record unless providing the estimate would harm an interest protected by the exemption under which the redaction is made. If technically feasible, the Finance Board shall make the indication at the place in the record where the redaction is made.

(c) *Public interest.* The Finance Board may disclose records it has authority to withhold under paragraph (a) of this section upon a determination that disclosure would be in the public interest.

§ 910.6 Disclosure of Federal Home Loan Bank Examination Reports.

The Finance Board may disclose an examination, operating, or condition report of a Bank or a related record to a financial regulatory agency upon a determination that:

(a) The person requesting the record on behalf of the financial regulatory agency has the authority to make such request;

(b) The financial regulatory agency is requesting the record for a legitimate regulatory purpose; and

(c) The financial regulatory agency making the request agrees that it shall not disclose the record pursuant to FOIA, the agency's regulations, or any other authority.

§ 910.7 Records of Financial Regulatory Agencies Held by the Finance Board.

The Finance Board shall not disclose an examination, operating, or condition report, or other record prepared by, on behalf of, or for the use of a financial regulatory agency. Upon a receipt of a request for such records, the FOIA Officer shall promptly refer the request to the appropriate agency and notify the requester of the referral.

§ 910.8 Appeals.

(a) *Procedure.* (1) If the FOIA Officer has denied a request in whole or in part, the requester may appeal the denial by submitting a written application to the FOIA Officer stating the grounds for the appeal within 30 working days of the date of the determination under section 910.4.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.8 Appeals (continued).

(2) Subject to section 910.9(f), within 20 working days of receipt of an application for appeal meeting the requirements of paragraph (a)(1) of this section and any extensions of time under paragraph (a)(3) of this section, the Finance Board shall determine whether to grant or deny the appeal and notify the requester in writing of the determination, the name and title or position of the person responsible for the determination, and the provisions for judicial review of this final action under 5 U.S.C. § 552(a)(4).

(3) In unusual circumstances, the FOIA Officer may extend the time limit in paragraph (a)(2) of this section for a period not to exceed 10 working days by notifying the requester in writing of the reasons for the extension and the date on which a determination is expected.

(b) *Appeal during pendency of judicial review.* If a requester files an action in a United States district court under 5 U.S.C. 552(a)(4) concerning a request for Finance Board records before exhausting the administrative appeals process for that request under paragraph (a) of this section, the Finance Board may:

- (1) Initiate and process an administrative appeal; or
- (2) Continue to process an administrative appeal previously filed under paragraph (a) of this section.

§ 910.9 Fees.

(a) *Fees.* Except as otherwise provided in a statute specifically providing for setting fees for particular types of records or in this section, the Finance Board shall assess against each requester the direct costs of responding to a request for records.

(1) If the records are requested for a commercial use, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search, review, and duplicate records.

(2) If the records are not requested for a commercial use and the requester is an educational institution, non-commercial scientific institution, or representative of the news media, the direct costs are limited to the reasonable operating costs the Finance Board incurs to duplicate records in excess of 100 pages.

(3) If neither the request nor the requester is described in paragraphs (a)(1) or (2) of this section, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search in excess of two hours and duplicate records in excess of 100 pages.

(4) For purposes of this section, the term:

(i) *Commercial use request* means a request from, or on behalf of, a person who seeks records 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.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.9 Fees (continued).

(4)(ii) *Educational institution* means a preschool, public or private elementary or secondary school, or institution of undergraduate, graduate, professional, or vocational higher education that operates a program of scholarly research.

(iii) *Non-commercial scientific institution* means a nonprofit institution operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(iv) *Representative of the news media* means a requester who is actively gathering information that is about current events or would be of current interest to the public for an entity that is organized and operated to publish or broadcast news to the public.

(b) *Fees when no records are provided.* The Finance Board may assess a fee for the direct costs of searching for a requested record the Finance Board cannot locate or if located, determines to be exempt from disclosure under section 910.5.

(c) *Interest.* The Finance Board may assess interest at the rate prescribed in 31 U.S.C. § 3717 on any unpaid fees beginning 31 days after the earlier of the date of the determination under section 910.4 or the date a fee statement is mailed to a requester. Interest shall accrue from such date.

(d) *Exceptions.* Notwithstanding paragraphs (a) or (b) of this section, the FOIA Officer may determine not to assess a fee or to reduce a fee if:

(1) The routine cost of collecting and processing the fee is likely to equal or exceed the amount of the fee.

(2) The fee is equal to or less than 10 dollars.

(3) Disclosure of the record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(i) A requester may apply in writing to the FOIA Officer for a waiver of fees under this paragraph (b)(3). A fee waiver request shall include the following:

(A) The requester's interest in and proposed use of the record;

(B) Whether the requester will derive income or other benefit from the record;

(C) An explanation of how the public will benefit from disclosure, including the requester's ability and intention to disseminate the information to the public; and

(D) The requester's expertise in the subject area of the record.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.9 Fees (continued).

(ii) In determining whether disclosure of a record is in the public interest, the FOIA Officer shall consider whether the record:

(A) Concerns identifiable operations or activities of the Finance Board;

(B) Is meaningfully informative in relation to the subject matter of the request;

(C) Contributes to an understanding of the subject matter by the public at large, and the significance of that contribution; and

(D) Furthers, or is primarily in, the requester's commercial interest.

(e) *Aggregating requests.* If the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the FOIA Officer may aggregate such requests and assess fees in accordance with this section.

(f) *Collecting fees.* (1) The Finance Board shall deem any request for Finance Board records as an agreement by the requester to pay fees and interest assessed in accordance with this section.

(2) To pay fees and interest assessed under this section, a requester shall deliver to the Office of Resource Management, located at the Federal Housing Finance Board, 1777 F Street, NW, Washington, D.C. 20006, a check or money order made payable to the "Federal Housing Finance Board."

(3) Prior to disclosing any record, the FOIA Officer may require a requester to agree in writing to pay actual fees and interest incurred in accordance with this section if the estimated fee will likely exceed \$25 but not \$250.

(4) The FOIA Officer may require a requester to pay an estimated fee in advance if:

(i) It is determined that the fee will likely exceed \$250; or

(ii) The requester has previously failed to pay a fee assessed under this section within 30 days of the earlier of the date of the determination under section 910.4 or the date a fee statement was mailed to a requester.

(5) The Finance Board shall promptly refund to a requester any estimated advance fee paid under paragraph (f)(4) of this section that exceeds the actual fee. The FOIA Officer shall assess the requester for the amount by which the actual fee exceeds the estimated advance fee payment.



PART 910: FREEDOM OF INFORMATION ACT

§ 910.9 Fees (continued).

(g) *Fee schedule.* The FOIA Officer shall assess fees in accordance with the following schedule:

Search:

Manual: Supervisory/Professional Staff	\$34.00 per hour
Manual: Clerical Staff	\$17.00 per hour
Computer: Operator	\$34.00 per hour
Computer output (PC)	actual cost
Diskettes (3 1/2 x 5 1/4)	\$5.00 per diskette
Review	\$34.00 per hour

Duplication:

Photocopy	\$.10 per page
Computer generated	\$.76 per 1000 lines
Copy of microfiche	\$.30 per page
Transcription of audio tape	\$4.50 per page
Certification, seal and attestation by the FOIA Officer	\$5.00 per document

Delivery:

Facsimile transmission (long distance).....	long distance charges plus \$.25 per page
Facsimile transmission (local)	\$.25 per call plus \$.25 per page
Express delivery service	actual cost