

(c) **Program components.** The Minority Contractors Outreach Program procedures shall include the following:

(1) **Contractor File.** (i) The Minority Contractors Advocate shall compile and maintain an ongoing file consisting of minority-owned entities that are interested in contracting with the Finance Board for goods or services through the competitive bidding or negotiated procurement process.

(ii) The information in such file shall list the current name and address of each such minority-owned entity and shall categorize each name and address as follows:

- (A) Accounting services;
- (B) Auditing services;
- (C) Computer services;
- (D) Consulting services;
- (E) Legal services;
- (F) Office supplies and equipment; or
- (G) Other services.

(2) **Solicitation.** The Minority Contractors Advocate shall implement a procedure for soliciting potential candidates for the contractor file provided for in paragraph (c)(1) of this section, by means of any of the following:

- (i) Referrals from executive departments, agencies or instrumentalities of the Federal Government;
- (ii) Direct solicitation of selected candidates;
- (iii) Advertising by direct mail or publications specifically directed to minorities, or minority-owned entities;
- (iv) Sponsoring Finance Board seminars designed to explain the Minority Contractors Outreach Program to minority contractors or minority-owned entities who have the potential of contracting with the Finance Board;
- (v) Attendance at conventions, seminars or other professional conferences of minorities or minority-owned entities located in the greater Washington metropolitan area.

(3) **Certification.** (i) No minority-owned entity (whether solicited by the Minority Contractors Advocate or not) may participate in the Finance Board procurement process as a minority-owned entity unless certified as such by the Chairperson, or designee.

(ii) The certification shall be by a means and form approved by the Finance Board.

(iii) Nothing in this section shall be deemed to prevent a non-certified minority-owned entity from participating in the procurement process as an entity not designated or deemed a minority or minority-owned entity.

(4) **Promotion.** (i) The Minority Contractors Advocate shall maintain an

ongoing campaign of promotion of the Minority Contractors Outreach Program with all certified minority-owned entities.

(ii) This campaign shall include:

(A) Ongoing dissemination of information about the Minority Contractors Outreach Program with certified minority-owned entities;

(B) Alerting appropriate certified minority-owned entities when the Finance Board makes a solicitation for a bid or initiates the negotiation of a procurement contract for goods or services;

(C) Acting as a liaison between the Finance Board contracting authorities and a particular minority-owned entity; and

(D) Assisting any certified minority-owned entity to understand Finance Board contracting procedures or other information regarding a particular bid or contract.

(iii) Nothing in this paragraph (c)(4) shall authorize the Minority Contractors Advocate to represent the interests of any minority-owned entity in any contract matter of bid before the Finance Board.

(5) **Contract award guidelines—(i) Contracts not exceeding \$25,000.** The Finance Board Contracting Officer shall, from time to time, award contracts for the procurement of goods or services, that do not exceed \$25,000 in costs, in the contractor file provided for in paragraph (c)(1) of this section, to the extent not inconsistent with the principles of Federal Government procurement laws. Such awards shall be made after consultation with the Minority Contractors Advocate.

(ii) **Contracts exceeding \$25,000.** Contracts for goods or services that exceed \$25,000 will be awarded on the basis and consistent with the principles of the Federal Government procurement laws. The Finance Board Contracting Officer and the Minority Contractors Advocate shall work to ensure, promote and facilitate the maximum participation of minority-owned entities in the Finance Board's procurement of goods or services that exceed \$25,000.

Dated: April 2, 1993.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.
Chairman.

[FR Doc. 93-8432 Filed 4-12-93; 8:45 am]

BILLING CODE 2520-01-04

12 CFR Part 904

[93-24]

Freedom of Information Act Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is issuing its regulations, containing the procedures for requesting and receiving information from Finance Board records pursuant to the Freedom of Information Act (FOIA), as a final rule.

EFFECTIVE DATE: April 13, 1993.

FOR FURTHER INFORMATION CONTACT: David A. Guy, Associate General Counsel, (202) 408-2536, or Charles Szlenker, Attorney-Advisor, (202) 408-2554, Office of Legal and External Affairs, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: The FOIA provides that each agency subject to its terms must promulgate regulations containing the procedures under which the public may obtain data or information from the agency. 5 U.S.C. 552(a)(1)(A). As an executive agency under Federal Home Loan Bank Act section 2A, the Finance Board is subject to FOIA. 12 U.S.C. 1422a(a)(2). Accordingly, the Finance Board issued its proposed FOIA procedures on December 30, 1991. See 56 FR 67242 (Dec. 30, 1991) (to be codified at 12 CFR part 904).

The Finance Board received comments from some of the Federal Home Loan Banks (FHLBanks), particularly with regard to whether these new FOIA regulations will apply to their records. Because the FHLBanks are not agencies within the meaning of 5 U.S.C. 552(f), it is the position of the Finance Board that information held by the FHLBanks is not subject to FOIA.

Some editorial changes have been made in the final rule, including modification of the definition of a record to conform with 44 U.S.C. 3301. The Finance Board has also decided to change the title of part 904 from "Character and Availability of Records" to the more straightforward title: "Freedom of Information Act Regulations."

List of Subjects in 12 CFR Part 904

Freedom of information.

Accordingly, part 904 is amended by revising the part heading, and by adding the text, to read as follows:

PART 904—FREEDOM OF INFORMATION ACT REGULATIONS

- Sec.
- 904.1 Purpose and scope.
- 904.2 Definitions.
- 904.3 Published information.
- 904.4 Records available to public.
- 904.5 Procedure for requesting records.
- 904.6 Fees for records disclosed.
- 904.7 Records not disclosed.
- 904.8 Disclosure of Federal Home Loan Bank examination reports to Financial Regulatory Agencies.
- 904.9 Records of Financial Regulatory Agencies held by Federal Housing Finance Board.
- 904.10 Service of process.
- Authority: 5 U.S.C. 552, 12 U.S.C. 1422b(a)(1).

§ 904.1 Purpose and scope.

(a) This part implements section 552 of title 5, United States Code, that requires the Federal Housing Finance Board to issue regulations informing the public of the places at which, the officers from whom, and the methods by which the public may request records, and to set a uniform schedule of fees for obtaining records.

(b) Any action or determination required or permitted by this part to be performed by the Finance Board, Executive Secretary or General Counsel may be delegated to another responsible agency officer or employee specifically designated for that purpose.

§ 904.2 Definitions.

As used in this part:

Commercial use request means a request from, or on behalf of, a requester seeking information for a use or purpose that furthers the commercial, trade or ultimate user.

Direct costs means the expenditures actually incurred by the Finance Board in searching for, duplicating (and in the case of commercial use requests, reviewing) records in response to a FOIA request, including the time spent by Finance Board employees performing the work and the cost of operating duplicating equipment.

Duplication means the process of making a copy of a record necessary to respond to a FOIA request, including a paper copy, microfilm, audio-visual material, or magnetic tape or disc.

Educational institution means a public or private college or university, preparatory school, or similar accredited institution of professional or vocational education that operates a program or programs of scholarly research.

Executive Secretary means the Executive Secretary of the Federal Housing Finance Board

Finance Board means the Federal Housing Finance Board.

Financial Regulatory Agency means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, The Federal Deposit Insurance Corporation or the National Credit Union Administration.

FOIA means the Freedom of Information Act.

Non-commercial scientific institution means a nonprofit scientific institution operated solely for the purpose of conducting scientific research not intended to promote any particular product or industry.

Record means documentary material, regardless of physical form, that is made or received by the Finance Board under Federal law or in connection with the transaction of public business, is preserved or appropriate for preservation as evidence of agency activities or because of the value of the information it contains, and is under the Finance Board's control at the time a request is received.

Representative of the news media means a requester, as defined below, actively gathering information about current events of interest to the public for a publishing or broadcasting entity.

Requester means any person, including an individual, firm, corporation, organization, or other entity, making a request to the Finance Board for a record or records.

Review means the process of examining a record in response to a request to determine whether any portion thereof is permitted to be withheld, and includes processing any portions thereof, to ready them for disclosure to a requester. The term does not include the time spent by Finance Board staff resolving general legal or policy issues regarding the application of FOIA exemptions to the record.

Search means the time spent locating records in response to a request, including page-by-page or line-by-line identification of information requested within a record, performed by Finance Board staff manually or by computer using existing programming.

§ 904.3 Published information.

(a) **Federal Register.** As required by sections 552 and 553 of title 5 of the United States Code, the Finance Board publishes in the Federal Register for the guidance of the public:

- (1) A description of its organization;
- (2) Statements of the general course and methods by which its functions are channeled and determined, including the nature and requirements of all

formal and informal procedures available;

(3) Rules of procedure, descriptions of available forms and where they may be obtained, and instructions as to the scope and contents of all papers or reports;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Finance Board;

(5) Every amendment, revision, or repeal of the foregoing; and

(6) General notices of proposed rulemaking.

(b) **Annual Report.** The Finance Board submits an Annual Report to Congress pursuant to section 2B(d) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1422b(d)). It is available to the public after its submission.

(c) **Other published information.** From time to time, the Finance Board provides information to the press regarding statements of policy, actions with respect to certain types of applications, and other matters.

(d) **Access to published information.** The publications referred to in paragraphs (b) and (c) of this section may be examined and, if available, copies may be obtained at the address set forth in § 904.5(b)(1).

§ 904.4 Records available to public.

(a) **General.** It is the policy of the Finance Board to provide as promptly and reasonably as possible all information, documents and records requested of the agency subject to the limitations stated in § 904.7 and 904.9. Information customarily furnished to the public in the regular course of the performance of official duties may continue to be furnished to the public without complying with this part, provided that the furnishing of such information would not violate the Privacy Act of 1974, 5 U.S.C. 552a, and would not be consistent with other subparts of this part. To the extent permitted by other laws, the Finance Board also will consider making available records that it is permitted to withhold under the FOIA, if it determines that such disclosures would be in the public interest.

(b) **Available records.** Subject to § 904.7, the Finance Board makes available for inspection and copying:

- (1) All final opinions by the Finance Board made in the adjudication of cases;
- (2) Statements of policy and interpretations adopted by the Finance Board, not published in the Federal Register; and

(3) Administrative manuals and regulations that affect any member of the public. To the extent required to prevent a clearly unwarranted invasion of personal privacy, however, the identifying details in any material of the kinds described above may be deleted.

(c) *Votes of Finance Board members.* Subject to the provisions of § 904.7, a record of the final votes of each member of the Finance Board in any proceeding is available for public inspection.

§ 904.5 Procedure for requesting records.

(a) *General.* Requests for access to, or copies of, Finance Board records shall be in writing and describe the information or records requested in a manner reasonably sufficient to identify them. The request shall state that it is being made pursuant to the FOIA, and shall state the full name and address of the requester. The request also may specify a dollar limit which the requester is willing to pay for the costs of searching, reviewing or duplicating, and the Finance Board will limit its search, review or duplication of the record to the dollar amount specified in the request.

(b) *Initial determination.* (1) All requests to access or to copy Finance Board records shall be in writing and addressed to the Executive Secretary, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

(2) If it is determined that a request does not reasonably describe the records sought, the Executive Secretary shall advise the requester that additional information is needed.

(3) The Executive Secretary shall forward any request for records made under this section to the appropriate Finance Board administrative unit that has custody of the requested record. Such unit will recommend whether to grant or deny the request for records promptly after receipt from the Executive Secretary of a written request for records that complies with paragraphs (a) and (b) of this section.

(4) All approvals or denials of requests for records under this part shall be in writing and signed by the Executive Secretary, or the Executive Secretary's designee, within ten days (except Saturdays, Sundays or Federal Government holidays) after receipt of the request by the Executive Secretary. Records will be disclosed after a party either pays the fees specified in § 904.6(1) or agrees to do so.

(5) All denials sent by the Executive Secretary to the requester shall:

- (i) State whether the denial is in part or in whole;
- (ii) State, briefly the reasons therefor; and

(iii) Inform the requester that the denial is not a final agency action and may be appealed under paragraph (c) of this section.

(c) *Appeal.* (1) A requester may appeal a denial of a request for records under paragraph (b) of this section by mailing an appeal to the Executive Secretary at the address set forth in paragraph (b)(1) of this section, within 30 days (except Saturdays, Sundays or Federal Government holidays) of the date of written notification of the denial.

(2) The appeal shall be by written application addressed to the Finance Board and shall state the grounds therefor.

(3) The Finance Board, or designee, shall determine whether to grant the appeal or uphold the initial determination within 20 days (excluding Saturdays, Sundays or Federal Government holidays) after receipt of the application by the Executive Secretary. If the initial determination is upheld in whole or in part, the Executive Secretary, on behalf of the Finance Board, will notify the requester in writing of the decision, the name of the official responsible for the decision, and of the provisions for judicial review of the final action under 5 U.S.C. 552(a)(4).

(d) *Appeal during pendency of judicial review.* If a suit is brought in a United States district court under 5 U.S.C. 552(a)(4) after the Executive Secretary has denied a request for Finance Board records but before the Finance Board, or its designee, has ruled on the appeal, the Finance Board, or its designee, may at its option:

- (1) If an appeal has been made, continue to process the appeal; or
- (2) If an appeal has not been made, decide on its own to initiate an appeal.

(e) *Time computation—(1) Agency.* For the Finance Board, the time limits in §§ 904.5 (b)(4) and (c)(3) with respect to initial determinations or appeals shall begin as of the date on which a reasonably described, written request for records, or a written application on appeal, is actually received by the Executive Secretary.

(2) *Requester.* For a requester making an appeal, the time limits in § 904.5(c)(1) with respect to an appeal shall begin three working days after the date of the initial determination.

(f) *Extension of time.* (1) The Executive Secretary may extend the time limits prescribed in §§ 904.5 (b)(4) and (c)(3) for not more than ten working days by written notice to the requester, giving the reasons for the extension and a new date for the determination or appeal decision.

(2) Extensions may be granted for:

(i) The need to search for and collect the requested records from establishments other than the Finance Board;

(ii) The need to search, collect and examine a large amount of separate and distinct records demanded by a single request;

(iii) The need to consult with another executive department or agency having substantial interest in the outcome of the request or appeal.

§ 904.6 Fees for records disclosed.

(a) *General statement.* In accordance with this section, the Finance Board shall recover the full allowable direct costs of providing copies of records pursuant to 5 U.S.C. 552. Accordingly, except as provided herein, the Finance Board shall assess fees for searching, reviewing and duplicating any record in accordance with the fee schedule herein. The fee schedule is based upon the category of requester and upon the services requested.

(b) *Categories of requesting parties—*

(1) *Designation.* The Finance Board shall categorize requesters based on the following five categories:

- (i) Commercial use requesters;
- (ii) Educational institution requesters;
- (iii) Non-Commercial scientific institution requesters;
- (iv) Representatives of the news media; and
- (v) All other requesters.

(2) *Limitations on fees charged.* The Finance Board shall assess fees pursuant to this section as follows:

(i) *Commercial use requesters.* Requesters making a commercial use request for a record shall be assessed the full direct costs for searching for, reviewing, and duplicating records, in accordance with the fee schedule at § 904.6(1). They are not entitled to the free search time or free pages of duplication provided to other categories of requesters.

(ii) *Educational institution requesters.* Educational institution requesters may be assessed fees only for duplication of records in excess of the first 100 pages. They may not be assessed fees for search or review.

(iii) *Non-commercial scientific institution requesters.* Non-commercial scientific institution requesters will be assessed in the same manner as educational institution requesters.

(iv) *Representatives of the news media.* Representatives of the news media will be assessed in the same manner as educational institution requesters.

(v) *All other requesters.* Requesters for Finance Board records who do not fit into any of the categories above shall be

assessed fees only for searching and duplicating records except that the first 100 pages of duplication and the first two hours of search time shall be furnished without charge. Requesters in this category may not be assessed fees for review.

(c) *Review of records.* Charges will be assessed only for the initial review of the located documents and not for time spent at the administrative appeal level on an exemption applied at the initial determination level. However, where records or portions thereof are withheld in full under an exemption that is subsequently determined not to apply, and these records are reviewed again to determine the applicability of other exemptions not previously considered, charges for review are properly assessable.

(d) *Additional copies.* The Finance Board will furnish one copy of any record. The allowance of 100 free pages of duplication under paragraphs (b)(2)(ii), (iii), (iv), and (v) of this section shall not apply to additional copies furnished at the request of the record requester. Full duplication fees shall be assessed for each page of each additional copy.

(e) *Requests under other statutes—(1) Privacy Act.* Requests from individuals for records about themselves filed in a system of records maintained by the Finance Board will be treated under the fee provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

(2) *Sunshine Act.* Requests for copies of transcripts or minutes, or for transcription of electronic recordings of Finance Board meetings, or portions thereof, will be treated under the fee provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

(f) *Charges for unsuccessful search.* Where applicable under this section, fees may be assessed for time spent searching, even if the Finance Board fails to locate the records or if located records are determined to be exempt from disclosure. By making an application for a request for Finance Board records, a requester agrees to pay such charges for unsuccessful searches by Finance Board staff.

(g) *Procedure for fee collection.* The Finance Board will collect fees for the direct costs of searching, reviewing, duplicating and related costs under the following procedures:

(1) *Agreement.* If after receiving a request for Finance Board records, the Executive Secretary estimates that the search, duplication or review costs of such request will exceed \$25 but not exceed \$250, the Executive Secretary will notify the requester to execute an agreement with the Finance Board to pay the final actual costs of the request.

Notwithstanding any provision of this part, the Finance Board will not disclose any record prior to receiving the executed agreement.

(2) *Advance payment.* If the Executive Secretary estimates that the search, review or duplication costs of a request will exceed \$250.00 and the Executive Secretary determines that the requester either has no prior history of payment of FOIA fees to the Finance Board or has previously failed to pay a FOIA fee in a timely fashion, the Executive Secretary will notify the requester to make an advance payment of the estimated amount prior to the disclosure of the requested records. For the purposes of this paragraph, "timely fashion" means a payment received by the Finance Board within 30 days following transmittal of disclosed records to the requester. The Finance Board shall promptly remit any amount of an advance payment that exceeds the actual final cost of disclosing the requested records, and the requester shall be liable for any actual cost exceeding the estimate.

(3) *Interest.* Where the requesting party has executed an agreement to pay the fee for the FOIA request, the Finance Board will assess interest charges on any unpaid fees starting on the 31st day following the day on which the billing for fees was sent to the requester. Interest will be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing. Interest is not chargeable for unpaid advance payments requested under this section.

(h) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of the document or documents, solely in order to avoid payment of fees. When the Finance Board 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, it may aggregate any such requests and charge accordingly.

(i) *Waiver or reduction of fee—(1) Collection and processing costs.* In its sole discretion, the Finance Board may opt to forego a fee for any costs of a request for records from any category of requester if it determines that the routine costs of collection and processing of the fees are likely to equal or exceed the fee amount.

(2) *Public policy.* (i) The Finance Board will furnish documents without charge or at a reduced charge when it is determined that 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.

(ii) In determining whether disclosure is in the public interest, the following factors may be considered:

(A) The relationship of the records to Finance Board operations or activities;

(B) The informative value of the record to be disclosed;

(C) Any contribution to an understanding of the subject by the general public likely to result from disclosure;

(D) The significance of that contribution to the public understanding of the subject;

(E) The nature of the requester's commercial interest, if any, in disclosure; and

(F) Whether the disclosure would be primarily in the requester's commercial interest.

(iii) In making a request for a waiver or reduction of fees, a requester should include:

(A) A clear statement of the requester's interest in the requested documents;

(B) The proposed use for the documents and whether the requester will derive income or other benefit from such use;

(C) A statement of how the public will benefit from such use or the release of the requested records; and

(D) If specialized use of a record is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(iv) The burden shall be on the requester to provide evidence or information in support of a waiver or reduction of fees.

(v) Determinations concerning waiver or reduction of fees shall be made by the Executive Secretary.

(vi) Appeals from such determinations shall be decided by the Finance Board, or its designee.

(j) *Fee payment method.* Fees assessed under this part will be delivered to the Executive Secretary by check or money order, payable to the "Federal Housing Finance Board."

(k) *FAX transmission.* The Executive Secretary and the requester may agree that any Finance Board records made available pursuant to a request under this part may be made by facsimile transmission ("FAX"). The charge for FAX transmission shall be the long distance charge on the telephone call, or \$.25 for a call within the metropolitan-Washington area in addition to a \$.25 per page charge for use of the FAX apparatus.

(l) *Fee schedule.* Fees for searching, reviewing, duplicating, and providing Finance Board records under this

section will be assessed in accordance with the following schedule:

Supervisory/Professional	
Staff	\$16.00 per hour.
Search Staff	\$8.00 per hour.
Search (Computer):	
Operator	\$16.00 per hour.
Computer output (PC)	\$8.00 per hour.
Computer output (Mainframe)	[Actual cost].
Review	\$16.00 per hour.
Duplication:	
Photocopy	\$0.10 per page.
Computer generated	\$0.78 per 1000 lines.
Copy of microfiche	\$0.30 per page.
Transcription of audio tape	\$4.50 per page.
Certification with seal and attestation by:	
Executive Secretary	\$5.00 per document.
Address labels	\$8.00 per 1000 labels.

(m) *Other charges.* Complying with requests for special services associated with providing records (e.g., supplying special computer tabulations, or sending copies by express mail or messenger) is entirely at the Finance Board's discretion, and fees will be assessed to recover the actual cost of such services.

§ 904.7 Records not disclosed.

(a) *General.* Except as otherwise provided in this part, or as may be specifically authorized by the Finance Board, Finance Board records not otherwise publicly available will not be disclosed to a requester if such records are:

(1) *Authorized.* (i) Under criteria established by an Executive order to be kept secret because of national defense or foreign policy, and

(ii) In fact so classified pursuant to such order.

(2) Related solely to Finance Board internal personnel rules and practices.

(3) Specifically exempted from disclosure by:

(i) A statute other than the FOIA if:

(A) It requires that the record be withheld from the public in such a manner as to leave no discretion to the Finance Board; or

(B) It establishes particular criteria for withholding or refers to particular types of records to be withheld; or

(ii) Section 22 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1442).

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

(5) Inter-agency or intra-agency memoranda or letters that would not be

available by law to a requester other than an agency in litigation with the Finance Board, including records of deliberation between Finance Board members and staff.

(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 or a Federal or State Home Loan 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 an individual.

(8) Examination, operating or related reports prepared by, on behalf of, or for the use of the Finance Board, a Financial Regulatory Agency or a Federal Home Loan Bank.

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

(c) *Prohibition against disclosure.* (1) Except as authorized by this part or otherwise by the Finance Board, no agent shall disclose, or permit disclosure of any unpublished Finance Board record to anyone (other than another officer, employee, or agent properly performed to such information for the performance of official duties), whether by giving out or furnishing such record or a copy thereof or by allowing any person to inspect, examine or copy such

record or copy thereof, or otherwise. Notwithstanding the foregoing, unpublished economic, statistical or similar information or unpublished records regarding Finance Board interpretations of statutory or regulatory provisions may be disclosed, orally or in writing, by a Finance Board officer, employee or agent, subject, however, to the restrictions stated in this section.

(2) Notwithstanding any other provision in this part, no disclosure of a record will be made to a requester when the Executive Secretary determines that such requester has failed to make a timely payment of a fee charged for a previous request for records under § 904.6(g) until such time as such requester pays the full fee plus accrued interest to the Finance Board.

§ 904.8 Disclosure of Federal Home Loan Bank examination reports to Financial Regulatory Agencies.

The Director of the District Banks Directorate may disclose a report of examination of a Federal Home Loan Bank, or related record, to a Financial Regulatory Agency. Before disclosing such report, the Director shall make an affirmative determination that the requesting agency official is authorized to request the record on behalf of the agency and that the records are requested for a legitimate regulatory purpose and that the requesting agency has agreed not to disclose the contents of the record pursuant to the FOIA or the agency's regulations.

§ 904.9 Records of Financial Regulatory Agencies held by Federal Housing Finance Board.

(a) *Policy.* The Finance Board will not disclose information contained in records that have been given to it by one of the financial regulatory agencies.

(b) *Procedure.* Upon a receipt of a request for a record that was created by another financial regulatory, the Finance Board will promptly forward the request to the appropriate financial regulatory agency and also will notify the requester of this action. No further action by Finance Board will be taken on the request.

§ 904.10 Service of process.

(a) *Service on agency.* Any legal process served on the Finance Board demanding access to its records under the FOIA shall be addressed to the Executive Secretary and may be served by mailing the process, by certified mail, postage prepaid, to the address shown in § 904.5(b)(1).

(b) *Action by person served.* (1) This section applies to any person in possession of a Finance Board record that may not be disclosed under this

part, regardless of whether such person is a Finance Board officer or employee.

(2) Any person who is served with a subpoena, order or other process requiring attendance as a witness or document production of a record in any proceeding shall:

(i) Promptly advise the General Counsel of the Finance Board of such service and of all relevant facts, including the record requested; and

(ii) Advise both the authority issuing the subpoena, and the attorney for the party seeking the record, of the substance of these regulations.

(c) *Appearance by person served.* Except where disclosure of the record has been authorized by the Finance Board or law, any person, described in paragraph (b)(1) of this section, who is required to respond to a subpoena, shall attend the proceeding and respectfully decline to produce such record or give testimony with respect thereto, on the basis of this part. If the authority nevertheless orders the disclosure of the record or testimony, such person shall continue to respectfully decline to produce such record or testimony and shall promptly report the incident to the Finance Board.

Dated: April 2, 1993.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93-8435 Filed 4-12-93; 8:45 am]

BILLING CODE 6725-01-M

12 CFR Part 906

[93-26]

Meetings of the Board of Directors of the Federal Housing Finance Board Under the Government in the Sunshine Act

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") is promulgating its final rule on its procedures for conducting meetings of its five member governing Board of Directors under the Government in the Sunshine Act ("Sunshine Act").

EFFECTIVE DATE: March 13, 1993.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, (202) 408-2554, Federal Housing Finance Board, 1777 F Street, NW., Washington DC 20006.

SUPPLEMENTARY INFORMATION: On December 30, 1991, the Finance Board published its proposed regulations containing the procedures under which

the meetings of its Board of Directors would be open to the public. See 56 FR 67247 (Dec. 30, 1991). The proposed rule requested comments from the public. No comments were received. Accordingly, the Finance Board is promulgating its proposed rule as a final rule without any changes.

This final rule establishes the procedures for opening meetings of the Board of Directors to the public as well as for closing such meetings, in accordance with the Sunshine Act. The Finance Board is required to promulgate such procedures by the terms of the Sunshine Act, 5 U.S.C. 552b(g).

In accordance with the terms of the Regulatory Flexibility Act the Finance Board hereby certifies that this final rule does not have a significant impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 906

Sunshine Act.

Accordingly, part 906 is amended by revising the part heading, and by adding the text, to read as follows:

PART 906—INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD

- Sec. 906.1 Purpose and scope. 906.2 Definitions. 906.3 Open meetings. 906.4 Closed meetings. 906.5 Procedures for closing meetings. 906.6 Notice of meetings.

Authority: 5 U.S.C. 552b.

§ 906.1 Purpose and scope.

(a) This part is issued by the Federal Housing Finance Board pursuant to the Government in the Sunshine Act (5 U.S.C. 552b), that requires Federal agencies, headed by collegial bodies, to promulgate regulations to implement its provisions. The purpose of these regulations is to provide the public with access to information regarding the decisionmaking processes of the Board of Directors of the Finance Board, while protecting the privacy rights of individuals and the ability of the Board of Directors to carry out its responsibilities.

(b) The Board of Directors shall not jointly conduct or dispose of official Finance Board business other than in accordance with this part.

§ 906.2 Definitions.

For the purpose of this part: Board of Director or Director means a member of the Board of Directors.

Board of Directors means the five member governing Board of Directors of the Federal Housing Finance Board.

Chairperson means the Chairperson of the Board of Directors and includes the Acting Chairperson.

Executive Secretary means the Executive Secretary to the Board of Directors, and includes the Acting Secretary in the event the Executive Secretary position is vacant.

FHLBank means a Federal Home Loan Bank.

Finance Board means the Federal Housing Finance Board.

Meeting means any deliberations of three or more Directors of the Board of Directors, that determines or results in the joint conduct or disposition of official Finance Board business, but does not include:

- (1) Discussions to determine whether meetings will be open or closed or whether information pertaining to closed meetings will be disclosed; (2) Discussions to determine whether to schedule a meeting with less than seven days notice, or to change the time, place or subject matter of a scheduled meeting; and

(3) Disposition of Finance Board business by circulation of written materials on proposed actions to individual Directors for proposed actions, and notational voting by the individual Directors on such proposed actions.

Public observation means the right of the general public to attend open meetings of the Board of Directors, but does not include the right to participate therein unless invited to do so by the Chairperson.

Sunshine Act means the Government in the Sunshine Act.

§ 906.3 Open meetings.

(a) Except as provided in § 906.4, every portion of every meeting of the Board of Directors shall be open to public observation.

(b) Unless otherwise specified in the public notice, open meetings of the Board of Directors shall be held in the Board Room of the Finance Board at 1777 F Street, NW., Washington, DC, at the time specified in the public notice.

§ 906.4 Closed meetings.

(a) The Board of Directors may close a meeting, or portion thereof, to public observation, or withhold information from the public pertaining to a meeting, when it determines that opening the meeting, or a portion thereof, or the public disclosure of information pertaining to such meeting, or portion thereof, is likely to:

- (1) Disclose matters that are: (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests