

The Finance Board also is amending the fee schedule in its Freedom of Information Act (FOIA) regulation to take into account increased salary and operating costs. The Finance Board determines the amount of the fee it charges to duplicate records under the Privacy Act in accordance with the FOIA fee schedule.

DATES: The interim final rule will become effective on July 3, 2003. The Finance Board will accept comments on the interim final rule in writing on or before September 2, 2003.

ADDRESSES: Send comments by electronic mail to comments@fhfb.gov, by facsimile to 202/408-2580, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, Attn: Public Comments. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Janice A. Kaye, Senior Attorney-Advisor, Office of General Counsel, by electronic mail at kayej@fhfb.gov, by telephone at 202/408-2505, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

Effective March 20, 2000, responsibility for administering the Finance Board's FOIA program was transferred to the Office of General Counsel and an OGC staff member began acting as the Finance Board's FOIA Officer. In order to provide a requester with the maximum amount of information available under the law, the Finance Board processes some requests for records under both the FOIA and the Privacy Act. To minimize response time and to ensure consistent and appropriate analysis of agency records, the Finance Board has determined that responsibility and authority for both the FOIA and Privacy Act programs should reside in one agency office. Accordingly, the Finance Board has transferred responsibility for administering the Finance Board's Privacy Act program to the OGC, the office already responsible for running the agency's FOIA program. As part of the transfer, an OGC staff member is acting as the Finance Board's Privacy Act Official. The Privacy Act Official is authorized to make all initial denial determinations under the Finance Board's Privacy Act regulation.

The Finance Board is amending its Privacy Act regulation to reflect the reassignment of responsibility and authority. More specifically, the Finance Board is replacing the term "Executive

Secretary" and the term "Finance Board" with the term "Privacy Act Official" where appropriate. The Finance Board also is taking this opportunity to make the rule more "user-friendly" by rewriting the rule in plain language and using a question-and-answer format where appropriate.

Elsewhere in this issue of the **Federal Register**, the Finance Board is publishing a notice that makes corresponding changes to the agency's Privacy Act systems of records. Since the Privacy Act rule includes an exemption for Office of Inspector General (OIG) investigative files, the notice adds a new system of records covering OIG investigative records.

II. Analysis of the Interim Final Rule

The interim final rule revises the Finance Board rule implementing the Privacy Act of 1974, as amended (5 U.S.C. 552a), to reflect a reorganization in which responsibility and authority for running the agency's Privacy Act program was transferred to the OGC. The Finance Board also is revising the rule to make it more "user-friendly" by using plain language. A more detailed description of the provisions of part 913, as revised, follows.

A. Purpose and Scope

Section 913.2 restates the purpose and scope of part 913, which currently are found in § 913.1. The rule now makes clear that the Finance Board automatically processes a Privacy Act request for access to records under both the Privacy Act and the FOIA to provide a requester with the maximum amount of information available under the law.

B. Privacy Act Requests

Section 913.3 sets forth the procedures an individual must follow when making a request under the Privacy Act. It covers requests for access to records, for amendment or correction of records, and for an accounting of disclosures by the Finance Board. Section 913.3 includes provisions found currently in §§ 913.3(a)–(c), 913.4, and 913.6(a)–(b). The provision in current § 913.3(d) concerning disclosure of medical records has been deleted.

C. Finance Board Response to Privacy Act Requests

Section 913.4 explains how and when the Finance Board will respond to a Privacy Act request. The revised rule authorizes the Privacy Act Official to make all initial agency determinations, including adverse determinations. Section 913.4 restates provisions found currently in §§ 913.3(e)–(f), 913.5, and

913.6(d)–(e) without other substantive changes.

D. Appeals

Section 913.5 prescribes the procedures individuals must follow if they are dissatisfied with the Privacy Act Official's response to their Privacy Act request. It restates provisions found currently in §§ 913.3(g) and 913.6(f)–(g) with no substantive changes.

E. Fees

Section 913.6 concerns the fees the Finance Board charges to fulfill Privacy Act requests. The fee provision currently is found in § 913.7. The rule makes clear that the Finance Board considers a request to be an agreement to pay all applicable fees unless the requester expressly limits the amount he or she is willing to pay. The Finance Board, which charges only for duplication of records, determines the amount of the fee in accordance with the fee provisions of the agency's FOIA rule, which is codified at 12 CFR 910.9.

The Finance Board is amending the FOIA fee schedule, 12 CFR 910.9(g), to take into account changes in salary and operating costs. More specifically, the hourly search charge for clerical staff has increased from \$17.00 to \$28.00, for supervisory/professional staff from \$34.00 to \$53.00, and for computer operators from \$34.00 to \$48.00. The hourly charge to review records has increased from \$34.00 to \$53.00. With regard to duplication costs, the Finance Board has eliminated obsolete charges for computer output and microfiche, decreased the cost for diskettes from \$5.00 to \$.50, and added a \$1.00 charge for CD-ROMs. The Finance Board also is making clear that a requester's failure to timely pay FOIA fees assessed by this or any other federal agency may result in a requirement for the requester to pay future fees in advance or the administrative closing of a request.

F. Exemptions

Section 913.7 restates current § 913.8, which describes the records that are exempt from disclosure under the Privacy Act. Finance Board records that are exempt include the following: (1) Certain law enforcement files and files used to determine suitability, eligibility or qualifications for federal civilian employment or federal contracts that are contained in the OIG Investigative Records system of records (FHFB-7); and (2) materials contained in the system of records titled "Agency Personnel Investigative Records" (FHFB-6) that would reveal the identity of a source who furnished information to the government under an express