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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

JAN 16 2008

RE: Freedom of Information Act Request  
FOIA Control No.: FI-470511

This letter is in response to your Freedom of Information Act (FOIA) request dated December 18, 2007. In your letter, you asked for a copy of two volumes of FOIA materials on releasability of documents: volume 1 dated February 21, 2007, and volume 2 dated April 24, 2007.

When responding to a FOIA request, the Department of Housing and Urban Development searches for responsive documents existing up to the date the request is received in the Department's FOIA Office. Your request was received on December 28, 2007.

Your request is granted in full at no cost to you. I am enclosing copies of the information you have requested. Please be advised that the correct date for volume 1 is February 1, 2006.

For your information, your FOIA request, including your identity and any information made available, is releasable to the public under subsequent FOIA requests. In responding to these requests, the Department does not release personal privacy information, such as home address, telephone number, or social security number, all of which are protected from disclosure under FOIA Exemption 6.

Thank you for your interest in the Department's programs and policies.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia A. O'Connor".

Cynthia A. O'Connor  
Executive Secretary

Enclosures

# FOIA Guidance

## Volume 1

February 1, 2006

### A. Multifamily Insurance Applications: HUD Forms 92264 and 92264-A

The following provides guidance concerning processing of FOIA requests for information contained on Multifamily HUD Forms 92264, "Multifamily Summary Appraisal Report" and 92264-A, "Supplement to Project Analysis" and supersedes the May 22, 2003 memorandum issued by Marylea Byrd, former Assistant General Counsel for the FOIA Division.

The Headquarters Office of Multifamily Housing Development advised the FOIA Division that the majority of multifamily mortgage insurance applications are processed using Multifamily Accelerated Processing (MAP). As a result, most applications for multifamily mortgage insurance are submitted to HUD Field Offices for review only. The information contained on HUD Forms 92264 and 92264-A is obtained directly from private sector lenders and independent contract appraisers or appraisers who are employees of the lender.

The remainder of the multifamily mortgage insurance applications is processed using Traditional Application Processing (TAP). Under TAP, HUD processes the 92264 and 92264-A forms using information from the appraiser and HUD Form 92013, "Application for Multifamily Housing Project", which the lender fills out with information obtained by the borrower.

Because the commercial information contained on HUD Forms 92264 and 92264-A is compiled by entities outside of the agency, Exemption 4 of the FOIA may preclude the release of some of the commercial and financial information on the forms.

However, these HUD Forms should not automatically be withheld under Exemption 4. The information in the forms should be analyzed on a case-by-case basis. When reviewing the information to determine which parts of the forms are withholdable under Exemption 4, make sure that the Exemption's two threshold requirements have been met—the information was obtained from a person<sup>1</sup> and it is commercial or financial

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<sup>1</sup> Freedom of Information Act Guide & Privacy Act Overview (May 2004 Edition) ("The term 'person' refers to a wide range of entities, including corporations, banks, state governments, agencies of foreign governments, and Native American tribes or nations, who provide information to the government")

in character. Thereafter, review the forms and redact the material that would cause competitive harm to the submitter if released.

The information in the following sections of the 92264 and the 92264-A forms is releasable because it is public information that would not cause competitive harm to the submitter if released, unless the appraisal is part of a new construction loan, in which case the complete forms should be withheld under Exemption 4:

HUD Form 92264

- \* A. Location and Description of Property
- \* B. Additional Information Concerning Land or Property
- \* D. Amenities and Services Included in Rent
  - 37a. Unit Amenities
  - 37b. Project Amenities
  - 38. Services
  - 39b. Principal Balance

HUD Form 92264-A

- \* Name of the Mortgagor
- \* Name of Project
- \* Location of Project
- \* Type of Borrower
- \* Type of Project

The following sections should be redacted and withheld under Exemption 4, unless the information is so old (e.g. more than 5 years old) that it is unlikely to result in competitive harm if released:

HUD Form 92264

- \* C. Estimate of Income
- \* D. Amenities and Services Included in Rent
  - 37c. Unit Rating
  - 37d. Project Rating
  - 39a., c. and d.
- \* E. Estimate of Annual Expense
- \* F. Income Computations

- \* G. Estimated Replacement Cost
- \* H. Remarks
- \* I. Estimate of Operating Deficit
- \* J. Project Site Analysis Appraisal
- \* K. Income Approach to Value
- \* L. Comparison Approach to Value
- \* M. To Be Completed by Construction Cost Analyst

HUD Form 92264-A

- \* I. Determination of Maximum Insurable Mortgage
- \* II. Total Requirements for Settlement
- \* III. Source of Funds to Meet Cash Requirements

**B. REAC Data**

The OGC FOIA Division has received several inquiries from Field Offices in recent months regarding the processing of FOIA requests for REAC data. In particular, there is considerable confusion concerning whether requests for REAC data should be responded to by the Field Offices or REAC at Headquarters.

In order to continue to promote consistency of agency FOIA responses to requests for REAC data while not overburdening the Headquarters' Program Office, please be advised of the following change in policies.

**1. Physical Inspection Reports**

**A. FOIA Request for a Single Physical Inspection Report**

Field Offices should process and release a Freedom of Information Act (FOIA) request for a *single* REAC Physical Inspection Report for a property located in their jurisdiction if it has been 120 days or more since the Physical Inspection Report was released to the owner. If 120 days or more have passed since the Physical Inspection Report was released, the Field Office can be assured that there are no Technical Reviews

(TRs) or Database Adjustments (DBAs) pending at the Real Estate Assessment Center (REAC).<sup>2</sup>

If it has been less than 120 days since the Physical Inspection Report was released, the Field Office should contact the REAC to determine if they are processing a TR or DBA. If a TR or DBA is not pending, then the Field Office may release the Physical Inspection Report. If a TR or DBA is in process, then the Field Office should inform whoever submitted the FOIA request that HUD will not release the Physical Inspection Report pursuant to the deliberative process privilege of exemption 5 of the FOIA. The Physical Inspection Report is exempted from disclosure in this case because it is undergoing an internal deliberative decision making process that could effect the final inspection score. The Field Office should also inform whoever made the FOIA request that the Physical Inspection Report will be free for release once the TR or DBA process, including an appeal, is complete.

#### B. FOIA Requests for REAC Physical Inspection Reports with Scores Below 60

A Field Office should *electively* refer a property to the DEC when it receives a REAC physical inspection score that is below 60 within 10 days of the release of the physical inspection report unless, after review, it determines that there is a good reason to *delay* or to *refrain from* making such a referral. Multifamily Housing properties that receive a score of 30 or below on a REAC physical inspection are *automatically* referred to the appropriate DEC Satellite Office for evaluation through the Real Estate Management System (REMS).

Therefore, if a Field Office receives a FOIA request for a Physical Inspection Report that received a score that is below 60, the Project Manager should check the referral section of the Problem Statement Screen in the Real Estate Management Subsystem (REMS) to determine whether or not the DEC has closed the referral and follow the guidance above to determine whether a DBA or TR is pending. If the DEC has closed the referral and the Field Office determines that a DBA or TR is not pending it can release the report. If the referral has not been closed the Field Office should contact the DEC Satellite Office with jurisdiction over the property in question to determine whether any enforcement action is contemplated or pending against the owner/agent of the property, and whether there is an objection to releasing the report(s). The Field Office must also determine whether or not a DBA or TR is pending before deciding whether or not to release the report.

#### C. FOIA Request for Multiple Physical Inspection Reports

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<sup>2</sup> A Technical Review must be submitted to the REAC within 30 days of the release of the Physical Inspection Report and a Database Adjustment must be submitted to the REAC within 45 days of the release of Physical Inspection report. Since the REAC should response to these requests within 30 days, the Field Office can be assured that there are no TR or DBA requests pending if 120 days or more have passed since the Physical Inspection Report was released.

Field Offices should direct all Freedom of Information Act requests for more than one Physical Inspection Report on one or more properties to the REAC as all physical inspection reports are housed in the Physical Inspection Subsystem (PASS) database housed at the REAC. The REAC will process all multiple FOIA requests by following the procedures outlined in sections A and B above.

#### D. Consultation with the Office of General Counsel (OGC)

If a Field Office receives a FOIA request for a Physical Inspection Report, or any other documents pertaining to a property where enforcement action is or may be pending, they should consult with OGC to determine the appropriate course of action before releasing any documents.

## 2. Other REAC Data

All FOIA requests for REAC data (other than physical inspection reports) that originated in one Field Office or Hub's jurisdiction should be processed by that Field Office or HUB. In addition, all FOIA requests for REAC data that originated in more than one Field Office or Hub should be forwarded to the FOIA Office at Headquarters in Washington, DC for reply.

To assist you in making referrals please be advised that the following information is maintained by REAC Headquarters and the request for these documents should be referred to Headquarters:

- 1) All tenant survey information and scores from the surveys that will be conducted in multifamily housing projects and public housing developments;
- 2) All financial reports for multifamily housing projects and public housing developments that are filed with the REAC; and
- 3) All public housing management reports filed with the REAC.

#### C. Fair Housing Investigations

Both field offices and the FOIA Headquarters office receive frequent requests for documents related to discrimination complaints and investigations under the Fair Housing Act (42 U.S.C. §§ 3601, *et seq.*). The Fair Housing Act provides for the filing of complaints concerning alleged discriminatory housing practices, and implementing regulations at 24 C.F.R. part 103 detail the process for the Department's conciliation,

investigation and resolution of those complaints. OGC's FOIA Division has received numerous requests from the field offices for guidance on the handling of FOIA requests for information contained in Fair Housing investigative files.

The initial receipt of information that could lead to the filing of a Fair Housing complaint marks the commencement of law enforcement proceedings on any discrimination claim. This occurrence is significant, since FOIA Exemption 7 exempts from mandatory disclosure "records or information compiled for law enforcement purposes", when disclosure of such records would implicate specific concerns enumerated in the statute, including interference with the law enforcement proceeding, disclosure of a confidential source or law enforcement methodology, or an unwarranted invasion of personal privacy. Exemption 7 protects records compiled not only for criminal law enforcement purposes, but also civil law enforcement purposes. Because Exemption 7(A) permits withholding of law enforcement records or information the disclosure of which "could reasonably be expected to interfere with enforcement proceedings," the entire Fair Housing investigative file may be withheld pursuant to Exemption 7(A), even beyond issuance of the Final Investigative Report ("FIR"), so long as enforcement proceedings have not ended and disclosure of information in the file could reasonably be expected to interfere with investigation and/or enforcement efforts.

Enforcement proceedings are considered to be "open" until all reasonably foreseeable administrative and judicial proceedings have concluded, including agency oversight and enforcement of settlement and compliance agreements. Examples of interference with enforcement proceedings include revealing the scope and focus of the investigation and/or allowing for the circumvention of the investigation, as well as providing insights into the Department's legal thinking and strategy or otherwise impeding the Department from making its strongest case in ongoing conciliation efforts and formal enforcement proceedings.

Once the case is closed and all enforcement proceedings have ended (including monitoring and enforcement of settlement and compliance agreements), the Department may no longer protect the information and records compiled for the law enforcement purposes, including the case file and the FIR, pursuant to Exemption 7(A). However, certain portions of the case investigative file, including the complaint form and the FIR, may continue to be withheld under other FOIA exemptions. Addresses and telephone numbers of individuals must always be withheld under Exemption 7(C), as well as under Exemption 6. Exemption 7(C) protects against the disclosure of information contained in records compiled for law enforcement purposes the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy", and Exemption 6 protects against disclosure of certain "files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy". In response to a FOIA request from a person other than a party to the case, the names of witnesses, and any information that would otherwise allow for the identification of such third parties, should also be protected under Exemptions 6 and 7(C). Names and identifying information of private individuals other than of the parties and witnesses should always be redacted pursuant to Exemptions 6 and 7(C) regardless of the identity of the requester, as there is



very little public interest in this information, while the personal privacy interests may be significant.

The Privacy Act is a separate statute from the FOIA, and it should not be confused with the FOIA's privacy Exemptions 6 and 7(C). Although "Equal Opportunity Housing Complaints" constitute a HUD "system of records" subject to the Privacy Act, the Privacy Act has very little impact on HUD staff assigned the task of responding to a FOIA request for information contained in a Fair Housing Act case file. The Privacy Act, in part, provides that agencies cannot disclose information contained in a "system of records" without the prior consent of the individual to whom the record pertains, subject to twelve exceptions, one of which is a disclosure required by the FOIA. As such, the Privacy Act does not serve to protect any information contained in a Fair Housing Act case file that the FOIA requires to be released, though it does preclude HUD from making a discretionary release of personal information otherwise protected by Exemptions 6 or 7(C).

Exemption 7(E) of the FOIA protects records compiled for law enforcement purposes, the disclosure of which "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 . . . ." This exemption authorizes the withholding of guidelines and testing methodologies used by HUD and State and local Fair Housing enforcement agencies to assess and detect activities prohibited under the Fair Housing Act, including the methodologies to assess discrimination, credit scoring mechanisms, and the application of insurance risk factors, if release would impair the effectiveness of the testing methodologies, allow housing providers and others required to comply with Fair Housing laws and regulations to circumvent those same laws, or evade detection of violations.

Any portion of the case file or FIR that is deliberative and predecisional may also be withheld under the deliberative process privilege of Exemption 5, which operates to prevent disclosure of HUD agency records the release of which would harm the quality of the Department's decisions or decision making process. Drafts, analyses, and recommendations of investigators or other Fair Housing staff that advise supervisors on issues involved in the case that are both predecisional and deliberative (not factual), and not incorporated into a final agency decision, may be protected under the deliberative process privilege of Exemption 5. The case file may also contain information protected under the attorney-client privilege of Exemption 5, such as confidential communications concerning the case between Fair Housing program staff and Fair Housing program counsel. Additionally, the case file may also contain attorney-work product, and Exemption 5 would protect from disclosure memoranda and other documents prepared by program counsel in anticipation of litigation or administrative proceedings. The ability to withhold records protected under Exemption 5 is not limited by time. The Department may continue to withhold Exemption 5 information for an indefinite period beyond the conclusion of a Fair Housing Act case and enforcement proceedings.

Additional information that is protected from disclosure after a case is closed includes information created during conciliation efforts. 42 U.S.C. § 3610(d)(1) and 24

C.F.R. § 103.330(a) provide that nothing “said or done in the course of conciliation . . . may be made public or used as evidence . . . without the written consent of the persons concerned.” Such conciliation information is protected under Exemption 3 of the FOIA, which exempts from disclosure information specifically exempted by another statute.

The Fair Housing Act and implementing regulations require, however, that final conciliation agreements be made public, unless the parties request nondisclosure and the Department determines that disclosure is not necessary to further the purposes of the Fair Housing Act. 42 U.S.C. § 3610(b)(4) and 24 C.F.R. § 103.330(b). The Fair Housing Act and implementing regulations further require the Department to make public the dismissal of complaints based on determinations of no reasonable cause, except when a respondent requests nondisclosure. Notwithstanding such a party request for nondisclosure, the fact of dismissal and the names of the parties must be made available to the public upon request, including a FOIA request. 42 U.S.C § 3610(g)(3) and 24 C.F.R. § 103.400(a)(1). Further, final decisions on cases prosecuted through the Department’s administrative hearing process must be publicly disclosed. 24 C.F.R. § 180.680.

Parties to a housing discrimination case should not have to file FOIA requests for certain information related to the investigation because the Fair Housing Act and implementing regulations require the Department to make available to the parties “information derived from an investigation and any final investigative report relating to that investigation,” which must be made available upon request to the parties at the completion of the investigation. 42 U.S.C. § 3610 (d)(2) and 24 C.F.R. § 103.230(c). If a party to a Fair Housing case does file a FOIA request for information related to the case and investigation, it must be processed as a FOIA, subject to the cited Fair Housing Act and regulatory provisions, which operate to prevent the Department from invoking Exemption 7(A) in responding to requests from the parties at the completion of the investigation and issuance of the FIR, but before all enforcement proceedings have closed.

The Fair Housing Act requires the FIR to contain:

- (i) names and dates of contacts with witnesses;
- (ii) summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (iii) summary description of other pertinent records;
- (iv) summary of witness statements; and
- (v) answers to interrogatories. 42 U.S.C. § 3610(b)(5)(A).

Once an investigation has ended, upon request the Department must provide to the parties involved in an investigation the FIR information listed above, including the names of witnesses, except when witnesses request anonymity pursuant to 24 C.F.R. § 103.230(a)(1). As the Fair Housing Act statute and regulations further require, the Department must make available to the parties not only the FIR, but also “information derived from an investigation”. This phrase describes factual information obtained by the

HUD investigator during the course of investigation of the actions alleged in the complaint. Memoranda analyzing facts or making recommendations that are predecisional and deliberative, whether within HUD or between HUD and another agency, would not constitute such factual information and would not have to be disclosed to the parties in the case, pursuant to Exemptions 5 and 7(A) while enforcement proceedings remain open, and Exemption 5 after enforcement proceedings have closed.

Please contact an attorney in the Office of Litigation's FOIA Division at (202) 708-0300 if you have any questions or comments about this guidance.

# FOIA Guidance

Volume 2

April 24, 2007

## Federal Employee Information

Exemption 6 of the FOIA requires agencies to withhold certain information contained in “personnel and medical files and other similar files.” This Guidance sets forth what federal employee information may or may not be released pursuant to a Freedom of Information Act (FOIA) request from third-parties.

To be protected under Exemption 6 of the FOIA, information need not be found in a file marked “personnel” or in a system maintained for personnel records. The term “similar files” has been given very broad meaning. Exemption 6 may apply to any information about a particular, identifiable individual regardless of the label of the file in which the information is contained. This includes, but is not limited to, form SF-171, SF-50, SF-52, OF-612, resumes, benefit forms, leave slips, standard payroll forms, and time and attendance records. Compilations of information for statistical purposes, or compilations that do not identify, and cannot lead to the identification of, particular individuals are not included.

Once information about a particular, identifiable federal employee is found, it is releasable under the FOIA when an employee’s privacy interest, if any, is outweighed by the public interest in that information. There is a public interest if the information will lead to a greater public understanding of agency functions or operations. If there is no public interest, or if the employee’s privacy interest outweighs the public’s interest in disclosure and “would constitute a clearly unwarranted invasion of personal privacy,” the information should be withheld under Exemption 6. Information about deceased individuals is generally not exempt unless surviving relatives have a privacy interest in the information.

### **I. The following information is generally exempt from release under the FOIA:**

#### Personal information:

- Home address and home/cellular telephone numbers;
- Social Security Number;
- Age, place and date of birth;
- Other names used, including maiden names;
- Marital status;
- Race and/or ethnic background;
- Individual’s party or union affiliation;
- Arrest/Conviction information;

- Disability/Worker's Compensation information;
- Reason for job termination.

Payroll information:

- Health and Life Insurance information;
- Annuitant Indicator;
- Tax deductions/amounts;
- Withholding Exemptions.

Financial information:

- Credit ratings;
- Federal debt.

**II. The following information is generally releasable due to no privacy interest:<sup>1</sup>**

The releasable information from personnel records include a current or former employee's:

- Name;
- Present and past position titles and occupational series;
- Present and past grades;
- Present and past annual salary rates (including certain awards or bonuses [*see "Performance Award/Ratings" below*], meritorious or Distinguished Executive Ranks, and allowance and differentials);
- Present and past duty stations (includes room numbers, official telephone numbers, e-mail addresses, shop designations or other identifying information regarding buildings or places of employment); and
- Position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) that the release of which would not interfere with law enforcement programs or severely inhibit agency effectiveness.

**III. Release of the following information requires balancing the privacy interest against the public interest:**

Hiring Decisions

Applicants who were unsuccessful or did not accept a position with the federal government have a privacy interest in information otherwise releasable for federal employees. Withhold unsuccessful applicant names, qualifications, narrative materials, and other application materials.

Panel ratings and scores for a successful job candidate may be released but the names of raters should be withheld under Exemption 5.

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<sup>1</sup> Federal employees have no privacy interest in certain information. OPM Availability of Information Regulation, 5 C.F.R. § 293.311 (2006) states that certain information about most present and former federal employees is available to the public.

Names of selecting officials may be released.

Prior Employment

The types of information releasable for current HUD employees (i.e. salary, grade, position information, names of supervisors, etc.) are also releasable for that employee's prior employment in Federal or State Government positions.

Information about prior employment in the private sector may also be released if related to an employee's duties or relevant to the employee's qualifications for employment. Only position descriptions and the name, address and general office telephone number of the employer should be released for relevant past private employment. The employee's salary and the name and direct telephone number of supervisors should be withheld.

Reason for leaving prior employment should be withheld.

Educational Background

Post-graduate or technical education in preparation for, or related to, the employee's profession may be released, including dates of attendance and degree(s) received. High school and college information should be protected if not related to the qualifications for the position.

Extracurricular activities at disclosed post-graduate or technical schools are exempt if they do not relate to the employee's position.

Military Service and Veterans Preference

The fact that an employee served in the military is releasable. Release the dates and branch for past active duty military service, military service number, and rank.

Withhold the type of discharge received.

If the employee claimed a veteran preference, release the fact that a preference was claimed but redact information that indicates whether a 5- or 10-point bonus was claimed.

Information from/about about third-parties.

Withhold names, addresses and telephone numbers of references. The type of business or occupation of references may be released providing they do not identify the reference.

Names and family relationships of relatives employed by the federal government or armed services are generally withheld. However, if the relative works for or supervises the applicant, then the information is releasable.

### Skills, Accomplishments, Memberships

The following information may be released only if it relates to the employee's job:

- Special Skills listed as special qualification to help get a job;
- Licenses or Certificates (i.e. Bar Memberships for Attorneys, CPA license for Accountants), include date of issue and licensing authority;
- Professional Organization memberships;
- Foreign language skills;
- Honors, awards, or fellowships, and the year received.

### Time and Attendance Records

An employee's number of hours worked, including credit hours, compensatory time, and overtime may be released.

The total number hours of leave time may also be released. However, withhold the breakdown of leave time, i.e. sick or annual leave, leave without pay, absent without leave, and other personal information from those records, such as Social Security Numbers.

### Union Affiliation

Names of members of the bargaining unit are releasable. Home addresses and other personal information protected for all employees are exempt. The names of dues paying members of the union are exempt.

### Performance Awards/Ratings

Withhold an employee's performance ratings, whether favorable or unfavorable. Ripskis v. Dep't of Housing and Urban Dev., 761 F.2d 1, 3 (D.C. Cir. 1984) (Even favorable information may be withheld because release may "spur unhealthy comparisons among HUD employees and thus breed discord in the workplace.") In addition to the performance ratings, any narrative information or supervisory notes on an employee's performance or evaluation for advancement should be withheld.

Where an award is directly and automatically linked to performance ratings, as HUD "Performance Awards" or "EPES Awards" are, the fact and amount of the award is protected. Since the amount of the award directly corresponds to the rating that employee received—the amount of a performance award is a previously set percentage of an employee's salary based solely on whether that employee receives an "outstanding" or "highly successful" performance rating—releasing the amount would allow a 'mathematical linkage' to the employee's protected performance appraisal.

Awards not based on performance ratings, but rather on a particular employee's specific accomplishments and received in an individual's professional capacity, are generally releasable. These awards include the "*Monetary Spot Award*," given for "noteworthy accomplishment related to job responsibilities;" the "*Superior Accomplishment Award*;" "*Length of Service Awards*;" and other non-monetary awards not directly linked to performance evaluations. However, the name of the nominator and justification for such awards should not be released. *Tomscha v. Joseph Giorgianni*, 2004 U.S. Dist. LEXIS 10057 (SDNY 2004) ("[T]he managers who nominated him and the authorizing officials who approved awards to him also have an interest in maintaining the confidentiality of their evaluations.")

Information that indicates an employee was nominated or considered for an award the employee did not ultimately receive is protected.

### Misconduct/Grievances

Allegations of misconduct, grievances, records of investigations, EEO investigatory files, etc., are generally exempt under Exemption 6. Civil or criminal law enforcement investigatory information may also be exempt under Exemption 7(A) and 7(C).

For "low-level" government employees, the results or outcomes of such allegations, investigations, responses to grievances, etc., including letters of reprimand or suspension are generally exempt from disclosure. However, for "high-level" Government officials, whether the determination of wrongdoing sheds light on agency functions must be weighed against the privacy interest of that official.

Please contact an attorney in the FOIA Division at (202) 402-2104 if you have any questions or comments about this guidance.