(iii) Estimate the volume of the records denied unless doing so would harm a protected interest; and
(iv) Explain how to appeal that decision, and provide the name and address of the HUD official to whom you should submit your appeal.

(3) Tell you that HUD’s estimate of the fee is more than you have agreed to pay and ask to confer within 10 days to see if you can reformulate your request so that HUD can meet your request at a fee that is acceptable to you; or

(4) Tell you that you will not receive a response until you have either paid your fee or committed to the amount of fee you will pay, as applicable, and will provide you 10 days to pay, or commit to pay, the fee.

(5) If you requested expedited processing, advise you whether your request is granted or denied and, if your request is denied, advise you of your right to appeal.

(c) What action may HUD take if I fail to respond? If you fail to respond within a period specified in this subpart, HUD may consider your request for records withdrawn and may terminate processing of your request.


§ 15.107 How does HUD handle requests that involve classified records?

If your request involves the release of documents that are classified under Executive Order 12958, HUD will refer your request and the pertinent documents to the originating agency for processing according to the requirements of §15.104(a). HUD may refuse to confirm or deny the existence of the requested information if the originating agency determines that the fact of its existence is itself classified.

§ 15.108 What are HUD’s policies concerning designating confidential commercial or financial information under Exemption 4 of the FOIA and responding to requests for business information?

(a) HUD’s general policy concerning business information which may be considered as confidential commercial or financial information.

(b) How does a submitter make a claim that business information is confidential commercial or financial information? (1) If you are a submitter, you may request confidential treatment of business information at the time the information is submitted to HUD or within a reasonable time after it is submitted.

(2) To obtain a designation of confidentiality, you must:

(i) Support your request with an authorized statement or a certification giving the facts and the legal justification for your request and stating that the information has not been made public; and

(ii) Clearly designate the information that you consider confidential.

(3) Your designation of confidentiality will expire 10 years after the date the information was submitted to HUD, unless you have provided a reasonable explanation for a later expiration date.

(c) How will HUD respond to a request for business information? If the information requested has been designated in good faith by the submitter as information to be protected under 5 U.S.C. 552(b)(4) (“Exemption 4”) or if HUD has reason to believe that the information may be protected by Exemption 4, HUD shall:

(1) Unless an exception in paragraph (c)(2) of this section applies, promptly notify the submitter about the request or the administrative appeal and give the submitter 10 working days to submit a written objection to disclosure. HUD will describe the requested business information or will provide copies of all or a portion of the records:

(2) If any of the following circumstances apply, HUD will not notify the submitter:

(i) HUD determines that the information should not be disclosed;

(ii) The information has been published lawfully or has been made available officially to the public;
§ 15.109 How will HUD respond to a request for information from Form HUD–92410 (Statement of Profit and Loss)?

(a) To whom will HUD disclose the information? HUD will release information from Form HUD–92410 (or a HUD approved substitute form that the mortgagor may have submitted) only to eligible potential purchasers and only during the period specified by HUD for the mortgage sale.

(b) Under what conditions will HUD release such information? HUD will release the information only if all of the following three conditions are met:

1. The information concerns a project that is subject to a HUD-held mortgage which HUD is selling under the authority of sections 207 (k) and (l) of the National Housing Act (12 U.S.C. 1713 (k) and (l)) or section 7(i)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3335(i)(3)).
2. The eligible potential purchasers have agreed to:
   i. Keep the information confidential;
   ii. Disclose the information only to potential investors in the mortgage and only for the period specified by HUD for the mortgage sale and to notify those potential purchasers of their obligations under this section;
   iii. Use the information only to evaluate the mortgage in connection with their investment decision.
3. The potential investors in the mortgage have agreed to keep the information confidential and to use the information only to evaluate the mortgage in connection with their investment decision.

(c) To whom may potential investors disclose such information? Potential investors in the mortgage may disclose the information to other entities only if the disclosure is:

1. Necessary for the investor’s evaluation of the mortgage;
2. Made in accordance with disclosure procedures for the specific sale that have been established by HUD; and
3. Current mailing address for the submitter. Each submitter must give HUD a mailing address for receipt of any notices under this section, and must notify HUD of any change of address.