



U.S. Department of Housing and Urban Development

**Office of Inspector General**

451 7<sup>th</sup> St., S.W.

Washington, D.C. 20410-4500

October 26, 2004

The Honorable Barney Frank  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Frank:

Thank you for your letter dated October 20, 2004, which pertains to the Office of Inspector General's (OIG) report of investigation concerning the activities of certain staff of the Office of Federal Housing Enterprise Oversight (OFHEO). This investigation was requested by Sen. Christopher S. Bond. In your letter, you express concern that the report of investigation "may have been selectively shared with a number of Members of Congress," and you request "that the report be immediately made public." OIG has not released the report of investigation to individual Members of Congress, selectively or otherwise, and cannot publicly disseminate it at this time.

The report of investigation and all of its contents are contained in the investigative files of OIG's Office of Investigation, which comprise a system of records covered by the Privacy Act of 1974, 5 U.S.C. § 552a. See 57 Fed. Reg. 25069 (June 12, 1992) and 65 Fed. Reg. 33243 (May 22, 2000). According to Subsection b of the Privacy Act:

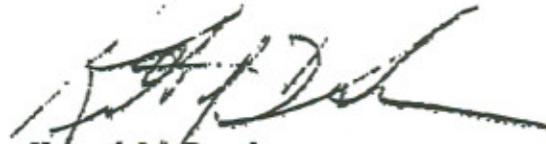
*No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior consent of, the individual to whom the record pertains, unless disclosure of the record would be [authorized by one or more of twelve statutory exceptions].*

5 U.S.C. § 552a(b)(9). This prohibition against disclosure relates to the report of investigation in its entirety; creation of a redacted copy of the report of investigation is not a legal option. Further, to date, the OFHEO personnel, about whom the report of investigation pertains, have not provided to OIG written consent to disclose it. Thus, at this time, public disclosure of the report of investigation is not permitted.

Exception 9 to the Privacy Act, however, authorizes OIG to disclose covered information to "to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such committee." 5 U.S.C. § 552a(b)(9). Pursuant to this exception and in response to formal requests, OIG has disclosed the report of investigation to your committee, to a subcommittee of your committee, and to a Senate committee. In so disclosing the report of investigation, OIG advised that it is protected by the Privacy Act and should be treated accordingly.

Please feel free to contact me at (202) 708-0430, if OIG can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Donohue", written over a horizontal line.

Kenneth M. Donohue  
Inspector General