

§ 1610.18

709, case files involved in the administrative process of the Commission are not available to the public.

(e) Each executed statistical reporting form required under part 1602 of this chapter, such as Employer Information Report EEO-1, etc., relating to a particular employer is exempt from disclosure to the public prior to the institution of a proceeding under title VII involving information from such form.

(f) Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) explicitly adopts the powers, remedies, and procedures set forth in sections 706 and 709 of title VII. Accordingly, the prohibitions on disclosure contained in sections 706 and 709 of title VII as outlined in paragraphs (b), (c), (d), and (e) of this section, apply with equal force to requests for information related to charges and executed statistical reporting forms filed with the Commission under the Americans with Disabilities Act.

(g) Requests for information relating to open case files covering alleged violations of the Equal Pay Act (29 U.S.C. 206(b)) or the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*) will ordinarily be denied under the seventh exemption of the Freedom of Information Act as investigatory records compiled for law enforcement purposes.

(h) The medical, financial, and personnel files of employees of the Commission are exempt from disclosure to the public.

[40 FR 8171, Feb. 26, 1975, as amended at 45 FR 40605, June 16, 1980; 56 FR 29579, June 28, 1991]

§ 1610.18 Information to be disclosed.

The Commission will provide the following information to the public:

(a) The Commission will make available for inspection and copying certain tabulations of aggregate industry, area, and other statistics derived from the Commission's reporting programs authorized by section 709(c) of title VII, provide that such tabulations: Were previously compiled by the Commission and are available in documentary form; comprise an aggregation of data from not less than three responding entities; and, do not reveal the identity

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of an individual or dominant entity in a particular industry or area;

(b) All blank forms used by the Commission;

(c) Subject to the restrictions and procedures set forth in §1610.19, all signed contracts, final bids on all signed contracts, and agreements between the Commission and State or local agencies charged with the administration of State or local fair employment practices laws;

(d) All final reports that do not contain statutorily confidential material in a recognizable form;

(e) All agency correspondence to members of the public, Members of Congress, or other persons not government employees or special government employees, except those containing information that would produce an invasion of privacy if made public;

(f) All administrative staff manuals and instructions to staff that affect members of the public unless the materials are promptly published and copies offered for sale; and

(g) All final votes of each Commissioner, for every Commission meeting, except for votes pertaining to filing suit against respondents until such litigation is commenced.

[56 FR 29579, June 28, 1991, as amended at 63 FR 1342, Jan. 9, 1998]

§ 1610.19 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Commercial information provided to the Commission shall not be disclosed except in accordance with this section. For the purposes of this section, the following definitions apply:

(1) *Confidential commercial information* refers to records provided by a submitter containing information that is arguably exempt from disclosure under 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* refers to any person or entity who provides confidential commercial information to the government. The term includes, but is not limited to, corporations, State governments, and foreign governments.

(b) *Notice to submitter.* Except as provided in paragraph (g) of this section,