

§ 1610.10

§ 1610.10 Responses: form and content.

(a) Once a requested record is identified and available, the requester will be notified of when and where the record will be made available and the cost assessed for processing the request. Records shall be made available in the form or format indicated by the requester, if the record is readily reproducible in that form or format. Fees for processing requests will be determined in accordance with the schedule set forth in §1610.15. Checks shall be made payable to the Treasurer of the United States.

(b) A reply denying a written request for a record shall be in writing, signed by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, and shall include:

(1) His or her name and title;

(2) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld, or a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed under §1610.9(a), and that the denial will be reconsidered as soon as the search or examination is complete; and

(3) A statement that the denial may be appealed to the Legal Counsel within 30 days of receipt of the denial or partial denial.

(c) When denying a request for records, the estimated volume of denied material shall be indicated, unless providing such estimate would harm an interest protected by the exemptions in 5 U.S.C. 522(b). When providing a reasonably segregable portion of a record, the amount of information deleted from the released portion, and to the extent technically feasible, the place in the record where such deletion was made shall be indicated.

(d) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified.

[40 FR 8171, Feb. 26, 1975, as amended at 52 FR 4902, Feb. 18, 1987; 56 FR 29579, June 28, 1991; 63 FR 1342, Jan. 9, 1998]

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§ 1610.11 Appeals to the Legal Counsel from initial denials.

(a) When the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, has denied a request for records in whole or in part, the person making the request may appeal within 30 calendar days of its receipt. The appeal must be in writing addressed to the Legal Counsel or designee, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507, and clearly labeled as a Freedom of Information Act appeal. Any appeal of a denial in whole or part by a regional attorney, or the regional attorney's designee, must include a copy of the regional attorney's, or the regional attorney's designee's determination.

(b) The Legal Counsel or designee shall act upon the appeal within 20 working days of its receipt, and more rapidly if practicable. If the decision is in favor of the person making the request, the decision shall order records promptly made available to the person making the request. The Legal Counsel or designee may extend the 20 day period in which to render a decision on an appeal for that period of time which could have been claimed and consumed by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, under §1610.9 but which was either not claimed or consumed in making the original determination.

(c) The decision on appeal shall be in writing and signed by the Legal Counsel or designee. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation of how the exemption applied to the records withheld and the reasons for asserting it, if different from that described by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee under §1610.10, and that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in the district in which the person resides or has his principal place of business, in the district where the records reside, or in the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be