

**§ 1610.16**

**29 CFR Ch. XIV (7-1-08 Edition)**

(b) When the Commission reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission shall aggregate any such requests and charge accordingly.

(c) Except as otherwise provided, the following specific fees for direct costs shall be applicable with respect to services rendered to members of the public under this subpart:

(1) For manual search and review time:

(i) By clerical personnel—at the rate of \$5.00 per quarter hour.

(ii) By paralegals—at the rate of \$9.00 per quarter hour.

(iii) By professional personnel—at the rate of \$10.00 per quarter hour.

(iv) By managers—at the rate of \$17.50 per quarter hour.

(v) By SES employees—at the rate of \$20.00 per quarter hour.

(2) For computer searches of records, requesters will be charged at the actual direct cost of providing the service. This includes the operator/programmer salary apportionable to the search based on the rates listed in paragraph (c)(1) of this section.

(3) For copies made by photocopy—\$0.15 per page (maximum of 10 copies). For copies prepared by computer, such as tapes or printouts, EEOC will charge the direct cost incurred by the agency, including operator time. For other forms of duplication, EEOC will charge the actual costs of that duplication.

(4) For attestation of documents—\$25.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(5) For certification of document—\$50.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(6) For each signed statement of negative result of search for record—\$10.00. Additionally, there may be search charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(7) For retrieval of records from a Federal Records Center—the amount charged to EEOC for retrieval of such records.

(8) All other direct costs of search, review, duplication or delivery (other than normal mail), shall be charged to the requester as appropriate in the same amount as incurred by the agency.

(d) The Commission shall not charge a fee if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee.

(e) The Commission shall charge interest at the rate prescribed in 31 U.S.C. 3717, accruing from the date of billing, to those requesters who fail to pay fees charged beginning on the 31st day following the day on which the billing was sent.

(f) While the fees charged for search and copying will in no event exceed those specified in paragraph (c) of this section, the Commission reserves the right to limit the number of copies that will be provided of any document or to require that special arrangements for copying be made in the case of records or requests presenting unusual problems of reproduction or handling.

[52 FR 13830, Apr. 27, 1987, as amended at 63 FR 1342, Jan. 9, 1998; 70 FR 57511, Oct. 3, 2005]

**§ 1610.16 Payment of fees.**

(a) Unless a person making a request under the Freedom of Information Act states that he or she will bear all assessed fees levied by the Commission in searching for and, where applicable, reproducing requested data, said person will be held liable for assessed fees not to exceed \$25.00. A request which the Commission expects to exceed \$25.00 and which does not state acceptance of responsibility for all assessed fees will not be deemed to have been received until the person making the request is promptly advised of the anticipated fees and agrees to bear them.

(b) A search fee will be assessable notwithstanding that no records responsive to the request or that no records not exempt from disclosure are found.

(c) The Commission shall require payment in full prior to the commencement or continuation of work on a request if:

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(1) It estimates or determines that the allowable charges will exceed \$250, unless the requester has a history of prompt payment of FOIA fees, in which case the Commission may obtain satisfactory assurance of prompt payment; or

(2) The requester has previously failed to pay fees within 30 days of the date of billing.

[40 FR 8171, Feb. 26, 1975, as amended at 52 FR 13830, Apr. 27, 1987]

### § 1610.17 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in 552(b). These categories include such matters as national defense and foreign policy information, investigatory files, internal procedures and communications, materials exempted from disclosure by other statutes, information given in confidence, and matters involving personal privacy.

(b) Section 706(b) of title VII provides that the Commission shall not make public charges which have been filed. It also provides that (subsequent to the filing of a charge, an investigation, and a finding that there is reasonable cause to believe that the charge is true) nothing said or done during and as a part of the Commission's endeavors to eliminate any alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion may be made public by the Commission without the written consent of the parties concerned; nor may it be used as evidence in a subsequent proceeding. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of section 706(b) shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than 1 year.

(c) Section 709 of title VII authorizes the Commission to conduct investigations of charges filed under section 706, engage in cooperative efforts with State and local agencies charged with the administration of State or local fair employment practices laws, and issue regulations concerning reports and record-keeping. Section (e) of sec-

tion 709 provides that it shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under section 709 prior to the institution of any proceeding under the act involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of section 709(e) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than 1 year.

(d) Special disclosure rules apply to the case files for charging parties, aggrieved persons on whose behalf a charge has been filed, and entities against whom charges have been filed. The special disclosure rules are available in the public reading areas of the Commission. Under sections 706 and 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