

§ 1703.1

1703.6 Schedules of fees.

Subpart B—Privacy Act Implementation

1703.20 Purpose and scope.

1703.21 Definitions.

1703.22 Procedures for requests pertaining to individual records in a system of records.

1703.23 Request for amendment or correction of a record.

1703.24 Disclosure of a record to a person other than the individual to whom it pertains.

1703.25 Schedule of fees.

AUTHORITY: 5 U.S.C. 552, 552a, and 571-576.

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Subpart A—Freedom of Information Act Implementation

§ 1703.1 General.

This part implements section 552 of title 5, United States Code, and prescribes rules governing the availability to the public of documents and records of the Advisory Commission on Intergovernmental Relations.

§ 1703.2 Publications.

(a) Complete lists of Legislative Recommendations and Reports, together with the texts of those Recommendations, Reports and other publications are maintained in the Offices of the Commission.

(b) The Annual Report of the Commission contains a list of all Legislative Recommendations and Commission Reports adopted during the preceding year. It also contains descriptive material regarding the work of the Commission. The Annual Report is available from ACIR. Single copies of current and past Annual Reports will also be furnished by the Commission on request, to the extent that supplies on hand permit.

(c) The Commission endeavors to maintain for distribution to interested persons an adequate stock of reports, copies of congressional testimony, newsletters, minutes of recent committee meetings, and other documents of general interest. Requests for single copies of such documents will be filled at cost to the extent that supplies on hand permit.

5 CFR Ch. VII (1-1-02 Edition)

§ 1703.3 Requests for records.

(a) It is the policy of the Commission to make records and documents in its possession available to the public to the greatest extent possible. All records of the Commission are available for public inspection and copying in accordance with this section except those records or portions of records as to which the Director or his designee specifically determines that:

(1) They fall within a particular exemption in section 552(b) of the Freedom of Information Act and

(2) Disclosure would not be consistent with the national interest, the protection of private rights or the efficient conduct of Commission business.

(b) A request for records, other than for documents which are published in the FEDERAL REGISTER or available for sale or distribution as described in § 1703.2, shall be made in writing and directed to the Executive Director, Advisory Commission on Intergovernmental Relations, 1111 20th Street, NW., Washington, DC 20575. Such request shall be clearly marked "Freedom of Information Request" or "Information Request" and shall reasonably describe the record requested. The staff of the Commission will make reasonable efforts to assist a requester in formulating his request. Nothing in this section shall preclude staff of the ACIR from complying with oral, unmarked, or generally stated requests for information and documents.

(c) The Executive Director or his designee shall, within ten working days after its receipt, either comply with or deny a request for records, provided that when additional time is required because of:

(1) A need to search for, collect and examine a voluminous amount of separate and distinct records demanded in a single request, or (2) a need for consultation with another agency having a substantial interest in the determination of the request, the time limit for disposing of the request may be extended for up to ten additional working days by a written notice to the requester setting forth the reasons for and the anticipated length of the delay.

(d)(1) Where it appears to the Executive Director or his designee that fees

chargeable under §1703.6 of this regulation for compliance with the request will exceed \$25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In such cases, a request will not be deemed to have been received until the requester is notified of the anticipated cost and agrees to bear it. The notification shall offer the requester the opportunity to confer with Commission personnel with the object of reformulating the request so as to meet his needs at lower cost.

(2) Where the anticipated fee chargeable under this part exceeds \$50, an advance deposit of 25% of the anticipated fee or \$25, whichever is greater, may be required. Where a requester has previously failed to pay a fee under this part, an advance deposit of the full amount of the anticipated fee may be required.

(e) The requester will be notified promptly of the determination made pursuant to paragraph (c) of this section. If the determination is to release the requested record, such record shall promptly be made available. If the determination is not to release the record, the person making the request shall, at the same time he is notified of such determination, be notified of:

(1) The reason for the determination;

(2) The name and title or position of each person responsible for the denial of the request; and

(3) His right to seek judicial review of such determination pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552(a)(4).

§ 1703.4 Index.

The Freedom of Information Act, 5 U.S.C. 552(a)(2), requires each agency to maintain and make available for public inspection and copying a current index of certain materials issued, adopted or promulgated by the agency. With respect to the materials covered by section 552(1)(2)(B), the Commission maintains currently for distribution a complete list of Commission Recommendations ("A" Series) and Reports ("M" Series), and other reports. The Commission has no adjudicatory respon-

sibilities of the kind contemplated by section 552(a)(2)(A) of the Act and does not ordinarily issue materials of the type described in section 552(a)(2)(C). Should such materials be issued, appropriate indexes will be maintained.

§ 1703.5 Policy with respect to request for particular kinds of documents.

This section is intended to amplify the policy set out in §1703.3(a) as applied to specific categories of documents:

(a) All materials which are distributed to the membership of the Commission (Docket Book) for consideration at a plenary session will upon distribution be available to the public in accordance with §1703.2(d) of these regulations.

(b) Consultant and staff reports which are otherwise exempt from disclosure under the Freedom of Information Act as interagency or intra-agency correspondence will, absent special circumstances, be made available if the reports are in substantially completed form and have been distributed widely for comment within or outside the Government. Tentative reports and working drafts which have received only limited circulation will ordinarily not be made available.

(c) Agency comments on a report or proposed legislative recommendation, even if exempt from disclosure under the Freedom of Information Act, will nevertheless ordinarily be made available unless the agency indicates to the Commission that its comment is confidential. Comment of an individual Commission member, writing in his personal capacity, will not be made available without the consent of the member.

(d) The following categories of documents are declared to be available to the public, notwithstanding any applicable exemption in section 552(b) of the Freedom of Information Act:

(1) Agency reports on the implementation of Commission recommendations;

(2) Correspondence from the Office of the Chairman of the Commission or the Executive Director to committees of Congress, commenting on pending legislation;