

810-14-1-.08 Fees and Costs for Witnesses.

(1) SCOPE. This regulation applies to the Department's authority to make payments to certain persons who are asked to provide information to the Department. Also, it specifies that witnesses, in general, will not be reimbursed for actual expenses incurred, but instead will be paid in accordance with the payment rates established by regulations.

(2) DEFINITIONS. The following terms have the meanings ascribed to them for purposes of this regulation:

(a) Directly incurred costs. Directly incurred costs are costs incurred solely and necessarily as a consequence of searching for, reproducing, or transporting records in order to comply with a summons. They do not include a proportionate allocation of fixed costs, such as overhead, equipment depreciation, etc. However, where a third party's records are stored at an independent storage facility that charges the third party a search fee to search for, reproduce, or transport particular records requested, these fees are considered to be directly incurred by the summoned third party.

(b) Reproduction costs. Reproduction costs are costs incurred in making copies or duplicates of summoned documents, transcripts, and other similar material.

(c) Search costs. Search costs include only the total cost of personnel time directly incurred in searching for records or information and the cost of retrieving information stored by computer. Salaries of persons locating and retrieving summoned material are not to be included in search costs. Also, search costs do not include salaries, fees, or similar expenditures for analysis of material or for managerial or legal advice, expertise, or research, or time spent for these activities.

(d) Third party. A third party is any person served with a summons, other than a person with respect to whose liability a summons is issued, or an officer, employee, agent, accountant, or attorney of that person.

(e) Third party records. Third party records are books, papers, records, or other data in which the person with respect to whose liability a summons is issued does not have a proprietary interest at the time the summons is served.

(f) Transportation costs. Transportation costs include only costs incurred to transport personnel to search for records or information requested and costs incurred solely by the need to transport the summoned material to the place of examination. These costs do not include the cost of transporting the summoned witness for appearance at the place of examination.

(3) PURPOSE. The purpose of this regulation is to outline the reimbursement procedures for third parties to follow in providing summoned records and to outline the reimbursement procedures for summoned witnesses.

(4) Conditions and rates of payments.

(a) Basis for payment. Payment for search, reproduction, and transportation costs will be made only to third parties served with a summons to produce third party records or information and only for material requested by the summons. Payment will be made only for these costs that are both directly incurred and reasonably necessary. Search, reproduction, and transportation costs must be considered separately in determining whether costs are reasonably necessary. No payment will be made until the third party has satisfactorily complied with the summons and has submitted to the Department employee before whom the third party was summoned an itemized bill or invoice showing specific details concerning the costs. If a third party charges any other person for any cost for which the third party is seeking payment from the Department, the amount charged to the other person must be subtracted from the amount the Department may pay.

(b) Payment rates. The following rates are established:

1. Search costs. For the total amount of personnel time required to locate records or information, \$8.50 per person hour may be reimbursable. For retrieval of information stored by computer in the format in which it is normally produced, actual costs, based on computer time and necessary supplies may be reimbursed, except that personnel time for computer search is payable as provided above.

2. Reproductions costs. For copies of documents, \$.20 per page for summoned materials may be reimbursable. For photographs, films and other materials, actual cost may be reimbursed, except that personnel time is payable only under subparagraph (4)(b)1. above.

3. Transportation costs. For transportation costs, actual cost may be reimbursed, except that personnel time is payable only under subparagraph (4)(b)1. above.

(5) Attendance fees. A summoned person shall be paid an attendance fee for each day's attendance. The attendance fee shall apply to the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of the attendance or at any time during the attendance. The attendance fee is equivalent to the amount paid under 28 USC Section 1821(b) to witnesses in attendance at courts of the United States at the time of the summoned person's appearance.

(a) Travel allowances. A summoned person who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from the summoned person's residence by the shortest practical route in going to and returning from the place of attendance. Such a summoned person shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished. A travel allowance equal to the mileage allowance which the State of Alabama

has prescribed for official travel of employees of the state government shall be paid to each summoned person who travels by privately owned vehicle. Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt) shall be reimbursed in full to a summoned person incurring those expenses.

(b) Subsistence allowances. A subsistence allowance shall be paid to a summoned person (other than a summoned person who is incarcerated) when an overnight stay is required at the place of attendance because the place is so far removed from the residence of the summoned person as to prohibit return thereto from day to day. A subsistence allowance for a summoned person shall be paid in an amount not to exceed the maximum per diem allowance prescribed for official travel by employees of the state government.

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