



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:
Appeal No. 2015-76

April 8, 2015

(b) (6)

Dear (b) (6) :

This responds to the January 23, 2015, Freedom of Information Act (“FOIA”) appeal (“appeal”) that you filed with the Department of the Interior (“Department”), which it received on March 24, 2015 (the date the Department received all of the documents that you are required to submit in order to file an appeal). Your appeal, which the Department assigned as **Appeal Number 2015-076**, concerns a November 14, 2014, FOIA request that you submitted to the Fish and Wildlife Service (“FWS”) seeking documents related to Job Announcement Number R6-15-1237284-M for a position in Lakewood, Colorado.

In response to the FOIA request, the FWS released some documents to you and it invoked FOIA exemption (6)¹ as a basis to withhold information concerning the applicants who were not selected to fill the position (“unsuccessful applicants”). The FWS also invoked the exemption to withhold “the resume, address, phone number[,] and email address” of the applicant who was selected to fill the position (“successful applicant”). You filed this appeal to obtain copies of the resumes of the applicants who made the Best Qualified List (“BQL”) for the position, arguing that FOIA exemption (6) does not apply to such documents.

Your appeal is **DENIED IN PART** and **GRANTED IN PART**.

Your appeal is **DENIED** in that the FWS properly invoked exemption (6) as a basis to withhold information concerning the unsuccessful applicants. The unsuccessful applicants have strong privacy interests in withholding their names and other information that identifies them, as the public could conclude from disclosure that these individuals were judged less qualified or less competent than the successful applicant, causing the unsuccessful applicants a great deal of personal and professional embarrassment. Any minor public interest that could be served by disclosure of information pertaining to the unsuccessful applicants would not overcome their significant privacy interests in withholding such information.²

With regard to the successful applicant, she/he does not have a privacy interest in withholding her/his name and information related to her/his qualifications, as disclosure would not cause

¹ Exemption (6) allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6).

² *Core v. United States Postal Service*, 730 F.2d 946, 948-49 (4th Cir. 1984); *Barvick v. Cisneros*, 941 F. Supp. 1015, 1021-1022 (D. Kan. 1996) (protecting all information about unsuccessful federal job applicants because any information about members of a “select group” who apply for such jobs could identify them).

personal or professional embarrassment because the FWS determined that she/he possesses the necessary qualifications to fill the position. As a result, your appeal is **GRANTED** insofar as this non-exempt information will be released to you.

However, please note that personal information concerning the successful applicant, e.g., a home address, e-mail address, social security number, and any other information that does not relate to her/his qualifications for the position she/he was selected to fill, is protected from disclosure by exemption (6). The successful applicant has a privacy interest in withholding such information, as disclosure would allow unwarranted intrusions into her/his private life. Further, you have not offered any public interest that would outweigh her/his privacy interest in withholding this information, as disclosure sheds no light on the FWS's performance of its statutory duties. Accordingly, your appeal is also denied with respect to the continued withholding of this personal information concerning the successful candidate.

As a final matter, the Department notes that you limited your request in the appeal to obtaining the resumes of individuals who made the BQL with an assertion that you are "entitled to review the qualifications of government employees. Furthermore, the information requested is in the public interest as the public has a right to know who is working for the government." However, to be clear, the unsuccessful candidates who applied for the position and who may have made any such BQL were not selected to fill the position. So, your arguments about reviewing their qualifications and knowing who is working for the government are inapplicable to the individuals who applied for but were not hired to fill the position. However, as previously noted, the Department will release certain information concerning the individual who was selected to fill the position, as your arguments in knowing her/his qualifications are valid.

Accordingly, to resolve this appeal, **by copy of this letter, the Department is remanding this matter to the FWS for it to:**

- **Release the successful candidate's name and information related to her/his qualifications from the resume that the FWS withheld.**
 - Invoke exemption (6) to withhold the successful candidate's personal information and other information that is not related to her/his qualifications for the position.
 - Do not include appeal rights in the FWS's response to this remand -- this decision serves as the final adjudication of the Appellant's request in the appeal for the resumes of the individuals.
- **Complete the release within 10 workdays from the date of this decision.**

The FWS will correspond directly with you regarding this matter, with a copy of its letter to this Office.

This completes the Department's response to your appeal. You have a right to seek judicial review of this decision under 5 U.S.C. § 552(a)(4)(B).

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If you have any questions regarding this matter, please call the FOIA Appeals Office at (202) 208-5339.

Sincerely,



Darrell R. Strayhorn
FOIA Appeals Officer
Department of the Interior

cc: Melissa Allen, FOIA Officer, FWS (**FOR ACTION**)

Cathy Willis, Acting FOIA Officer, FWS-Mountain-Prairie Region

Cindy Cafaro, Department FOIA Officer