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Memorandum

To: Bureau and Office Freedom of Information Act (FOIA) Officers

From: Gayle F. Gordon /s/
Acting Director
Office of Information Resources Management (PIR)

Subject: Processing FOIA Requests for Personal and
Personnel-Related Information

During the past few months, several questions have been raised concerning the releasability of various types of personal and personnel-related information. From our discussions, it appears that disclosure of this information sometimes varies from bureau to bureau. To ensure that requests for this type of information are processed consistently throughout the Department, the following policy guidelines are provided. It should be noted, however, that the examples cited below are intended as general guidelines only. Documents should be reviewed on a case-by-case basis as the information at issue and the individual circumstances will affect the Department's release determination.

This directive supersedes the October 4, 1991, memorandum on processing FOIA requests for SF-171 information, issued by the Departmental FOIA Officer, as well as any other guidance concerning personal/personnel-related information, including the Department of the Interior (DOI) FOIA Handbook (383 DM 15). The FOIA Handbook will be revised to incorporate the guidance contained in this memorandum.

Exemption (6) of the FOIA is usually invoked to withhold information about individuals in personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of an individual's personal privacy. Pursuant to the guidance of the courts, the Department maintains that an individual has a personal privacy interest in the information listed under B, below. Accordingly, this information is eligible for protection under exemption (6) if:

(1) There is no public interest qualifying under the standard set forth in United States Department of

Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989) and Department of Defense v. Federal Labor Relations Authority, 62 U.S.L.W. 4143 (U.S. February 23, 1994) (in order to qualify as a public interest, release of the information itself would have to shed light on the agency's performance of its statutory duties); or

(2) There is a public interest under exemption (6),

but the public interest in disclosure does not outweigh the potential harm to an individual's personal privacy when the required balancing test is performed (see the FOIA Handbook, Chapter 5.4F(3)).

However, exemption (6) may not be used where the privacy interest to be protected is the requester's. Therefore, this exemption should not be used to withhold information from a requester that he/she would be entitled to under the Privacy Act (information about himself or herself). For additional guidance, see the FOIA Handbook, Chapter 5.4F).

Specific examples are provided below:

A. Personal/personnel-related information generally releasable under the FOIA (see 5 CFR 293.311 and 383 DM 15, Chapter 3.22).

(1) Names of present and former employees.

(2) Present and past position titles and occupational series.

(3) Present and past grades.

(4) Present and past annual salary rates--including amounts received for performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials (normally, the name of the individual, position, type of award (performance, incentive, meritorious or distinguished service) and the dollar amount are releasable).

(5) Other awards and honors received in an individual's professional capacity, including

justification for all awards and honors except for information protected under exemption 6.

(6) Membership in organizations related to employee's profession (see B(26)).

(7) Present and past duty stations (this includes official mailing and E-mail addresses of DOI employees); as well as official telephone numbers as they appear in the DOI Telephone Directory.

(8) Position descriptions, identification of job elements and those performance standards (but not actual

performance appraisals) the release of which would not interfere with law enforcement programs or inhibit agency effectiveness. Performance elements and standards may be withheld when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal.

(9) Educational background--high school, college/graduate school; technical education related to the employee's (or successful applicant's) profession and/or position (see

B(1), below).

(10) Special skills, accomplishments, and awards related to the employee's (or successful applicant's) profession and/or position.

(11) Past Federal/State/local government employment and salary including reason for leaving except when protected under exemption (6) (see B(1), below).

(12) All other prior employment related to position held including reason for leaving except when protected under exemption (6) (redact salary, name and telephone number of supervisor) (see B(1), below).

(13) Type of job applying for.

(14) Sex.

(15) Citizenship.

(16) Information pertaining to military service and veteran preference, e.g., fact that an individual served, military service number, dates and branch for all active military service, rank, medals, badges or awards received, fact of veteran preference (see B(27) and (28), below).

(17) Fact of recommendation for promotion, reassignment, appointment, etc., after action occurs except for information protected under exemption 6.

(18) Letters of appreciation and commendation from professional associates.

(19) Standard payroll forms (sanitized of any personal information).

(20) SF 171, Application for Federal Employment, and other job application forms for the successful candidate or the incumbent (sanitized of any exempt material--see the FOIA Handbook,

Chapter 5.4F(7)(a) and B(12), below, regarding the SF-171's of unsuccessful applicants).

(21) SF 50, Notification of Personnel Action (sanitized of any exempt material--see the FOIA Handbook, Chapter 5.4F(7)(a)).

(22) SF 52, Request for Personnel Action (sanitized of any exempt material--see the FOIA Handbook, Chapter 5.4F(7)(a)).

(23) Verification of Indian Preference for Employment (Form S-4432) and Certificate of Indian Blood for successful applicant or incumbent (sanitized of any exempt material--see the FOIA Handbook, Chapter 5.4F(7)(a)).

(24) Factors used in ranking job applicants (not to be confused with a crediting plan cited under C(1), below).

(25) Name of the selecting official.

(26) Panel ratings and scores of the successful job candidate (names of raters should be protected) (see C(4), below).

(27) Members of the bargaining unit--names of all members (see B(7), below).

(28) Names of Federal employees involved in union activities during working hours.

(29) Number of hours worked, including overtime, and total number of hours of leave taken (see B(11), below).

(30) Names of individuals who applied for and received the buyout and have separated from the agency (see B(8), below).

(31) Service computation date and information related to tenure.

(32) Information about deceased persons unless exemption 6 is applicable (see the FOIA Handbook, Chapter 5.4F(5)).

(33) Names of FOIA requesters except when they are making first party requests (see B(30))*.

B. Personal/personnel-related information generally withheld under exemption 6 of the FOIA (see 383 DM 5.4F(7)).

(1) Personal identifying information such as:

- home address and telephone number;

- social security number;
- age, place and date of birth;
- other names used;
- marital status;
- race and/or ethnic background;
- an individual's party or union affiliation;
- technical education--not related to the position held (see A(9), above);
- work experience--not related to the professional qualifications for the position held (see A(11) and (12), above);
- whether an employer may be contacted regarding an individual's work record;
- availability for employment;
- details of health and insurance benefits;
- allegations of misconduct or arrests;
- information concerning or provided by relatives and references;

*The names of FOIA requesters are releasable as they do not ordinarily expect that their names will be kept private; therefore, release would not cause even a minimal invasion of their personal privacy. Personal information about the requesters, however, such as home addresses and telephone numbers should not be disclosed.

- other background information which is not work related; and
- tribal affiliation, degree of Indian blood ("quantum"), lineal heritage/history.

(2) Payroll information--number of deductions and the amounts, fringe benefit payments, number of withholding exemptions and net wages.

(3) Financial information such as an individual's credit rating, personal credit card numbers, business

credit card numbers, credit card statements.

(4) Personal cellular telephone and beeper numbers of private individuals; official cellular telephone and beeper numbers of security/special contact personnel (exemptions "high" (2) and (7), also possible).

(5) PIN (personal identification number).

(7) Names of dues paying members of the bargaining unit (see A(27), above).

(8) Names of individuals who applied for the buyout, but did not receive it (see A(30), above).

(9) Performance appraisals including any narrative material.

(10) Supervisory notes on an employee's performance.

(11) Time and attendance records (the amount of sick or annual leave, leave without pay (LWOP), absent without leave (AWOL) and other personal information--see the FOIA Handbook,

Chapter 5.4F(7)(a) and A(29), above).

(12) SF-171's of unsuccessful applicants for employment including their identities, qualifications, and any narrative material

(see A(20), above).

(13) The knowledge, skills, abilities and personal characteristics of unsuccessful applicants.

(14) Supervisory evaluation of a candidate for a particular position and assessment of professional conduct, ability, etc.

(15) Referral lists of qualified candidates and the roster of applicants for a particular position, except for the successful candidate.

(16) Reasons for job termination.

(17) Employee grievance and response to grievance.

(18) Records regarding the outcome of an investigation of employee conduct (where wrongdoing by high-level Government official is shown, the result may be different).

(19) Letters of reprimand and suspension notices.

- (20) EEO investigative case file (see ASB No. 95-9, dated September 28, 1995--exemptions (7C), (7A), and (5), also may apply).
- (21) Results of a complaint by an employee against his/her supervisor (where wrongdoing is shown, the result may be different).
- (22) Arbitration decision on an employee grievance (where a particular employee's decision is requested).
- (23) Employee's resignation letter.
- (24) Mailing lists that contain personal information (names, home addresses, and telephone numbers of individuals as opposed to businesses and other organizations) where the release would not shed light on the operations or activities of the Government (see the Reporter's Committee decision).
- (25) Records concerning an employee's medical condition, history, and health test results.
- (26) Membership in organizations other than those related to employee's profession (see A(6), above).
- (27) Information pertaining to eligibility for 5- or 10-point veteran's preference.
- (28) Information pertaining to whether an individual received an honorable or dishonorable discharge from military service.
- (29) Tribal census and membership rolls.
- (30) Names and home addresses of Privacy Act requesters and home addresses of FOIA requesters (see A(33), above).

C. In addition to information generally withheld pursuant to exemption (6), the following related information is also normally withheld under the FOIA:

- (1) Crediting plans used in determining the qualifications of a candidate for employment, advancement or promotion (exemption "high" (2));
- (2) Criteria for interviewing prospective employees (exemption "high" (2));
- (3) Examination questions and answers (exemption "high" (2)); and

(4) Ratings given to job applicants by panel members and the names of the panel members (ratings may be released if doing so will not reveal the identities of the panel members; the identities of the panel members may be released if doing so will not reveal the ratings they gave)--exemptions (5) and (6) may be used to protect this information (see A(26), above).

Please ensure that all employees are advised of the guidance contained in this memorandum. This will ensure that uniform responses are provided and protect the Department's position in the event of litigation. It also will ensure that the privacy of the subject individual(s) is protected.

If you still have questions concerning the releasability of any information, please consult the designated FOIA attorney for your bureau/office. When he/she is not available, please contact

Ms. Alexandra Mallus at (202) 208-5342, by fax at (202) 208-5048, by E-mail--Mallus, Alexandra (use ~Interior-CCM), or by Internet--Alexandra_Mallus@IOS.DOI.GOV. We appreciate your assistance and cooperation in this regard.

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