

FREEDOM OF INFORMATION ACT APPEAL

Freedom of Information Act Appeals Officer
U.S. Department of the Interior
1849 "C" Street, N.W., MS-6556, MIB
Washington 20240
District of Columbia, USA

April 13, 2016

USPS Certified: 70112970000261134956

Re:

1278 (OR-955)

FOIA No. OR-2016-036

eFTS No. BLM-2016-00277

FOIA No. OR-2016-043

eFTS No. BLM-2016-00339

FOIA No. OR-2016-053

eFTS No. BLM-2016-00377

FOIA No. OR-2016-059

eFTS No. BLM-2016-00417

FOIA APPEAL

Greetings Appeals Officer:

In accordance with 43 CFR §§ 2.57(a)(1) and 2.57 (a)(3), this is a formal appeal of the decision by Sally J. Sovey as Deputy State Director, Management Services, Oregon/Washington, and by Geoffrey Painter as Attorney, Department of the Interior, Office of the Solicitor, Pacific Northwest Region, as referenced in their letter dated April 7, 2016 (copy attached).

I can assure you, in your capacity as Appeals Officer, that neither I nor any of my colleagues or professional associates harbor *any* intentions of "stalking" or otherwise harassing the named personnel with FOIA Requests for their credentials.

Those credentials are required of them by Article VI, Clause 3, in the U.S. Constitution and by all implementing statutes and regulations. As such, the Oath of Office mandated by that Clause is elevated thereby to the status of a Fundamental Right, not merely a "civil right".

FOIA's statutory provisions identify situations in which sensitive personal information can be redacted.

The Federal requirements provide that ALL Federal officers and employees must execute valid SF-61 APPOINTMENT AFFIDAVITS prior to employment. These include all personnel hired by the U.S. Department of the Interior's Bureau of Land Management ("BLM").

I am primarily interested in knowing if they did, or if they did not, execute VALID SF-61 APPOINTMENT AFFIDAVITS when they were first hired by the BLM.

The existence or absence of valid SF-61s is a determination that is being made as part of an investigation authorized by the Civil RICO Act at 18 U.S.C. 1964, and by the False Claims Act at 31 U.S.C. 3729 *et seq.*, and by private contract with certain affected family members.

Moreover, the FOIA does NOT require any demonstrations of relevance or materiality.

The Paperwork Reduction Act and all of its implementing Regulations also require timely review and approval by the U.S. OMB of the electronic Standard Form 61 (“SF-61”) now published at OPM’s Internet website.

Whether or not any given SF-61 has been duly reviewed and approved by OMB, the PRA effectively created a **Right to Inspect** all such SF-61 APPOINTMENT AFFIDAVITS for *satisfactory* compliance with all pertinent implementing Regulations, chiefly 5 CFR 1320.5 *e.g.* notification in the *Federal Register*, opportunities for public comment, etc.

In this context, please honor and obey the PRA’s Public Protection Clause at 44 U.S.C. 3512(b), to wit:

*The protection provided by this section may be raised in the form of **a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.** [emphases added]*

Kindly also take special note of the Federal statute at 5 U.S.C. 5507, to wit:

*An officer required by section 3332 of this title to file an affidavit **may not be paid until the affidavit has been filed.** [emphases added]*

Finally, because the OATH is a Fundamental Right guaranteed by Article VI, the holding in Miranda v. Arizona is still controlling: *“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”* Obviously, the OATH is such a **Right secured by the Constitution** *i.e.* Article VI, Clauses 2 and 3.

All of the correspondence related to this request is being included in this Appeal.

Thank you for your timely consideration of this proper FOIA Appeal.

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Enclosures (as requested)

Courtesy Copy:

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