FOIA Appeal: SF-171 Info.--Not Job Related

Legal Opinion: GMP-0036

Index: 7.362, 7.560
Subject: FOIA Appeal: SF-171 Info.--Not Job Related

                          January 13, 1992

Mr. Juan Hernandez
13939 Flairwood
San Antonio, Texas 78233

Dear Mr. Hernandez:

     This is in response to your Freedom of Information Act
(FOIA) appeal dated May 5, 1991, of a denial of information by
HUD's Fort Worth Regional Office. Mr. James C. Farrington,
Personnel Officer, withheld certain information under Exemption 6
of the FOIA from the SF-171, Application for Federal Employment,
of the selected applicant for Vacancy Announcement No. 06-MSS-91-
0001z, Resident Initiatives Coordinator, GS-1101-12.

     Ms. Deborah J. Burton, Chief Steward, AFGE Local 3320, filed
an appeal on your behalf on May 5, 1991 for this information. I
affirmed the initial denial in my administrative decision to
Ms. Burton on July 24, 1991. After careful consideration of your
appeal, I have determined to reaffirm my decision in that appeal
to withhold the deleted information from the SF-171.

     Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6), authorizes the
withholding of information contained in "personnel and medical
files and similar files the disclosure of which would constitute
a clearly unwarranted invasion of personal privacy." Whether
disclosure would constitute a "clearly unwarranted" invasion of
personal privacy is determined by balancing the public's interest
in the release of the information against the privacy interests
of the individual. Wine Hobby USA, Inc. v. U.S. Internal Revenue
Service, 502 F.2d 133 (3rd Cir. 1974).

     Under Office of Personnel Management regulations, federal
employees' names, present and past position titles, grades,
salaries and duty stations are releasable to the public as no
viable privacy interest exists in such information. See
5 C.F.R. 293.311 (1988). Further, it is the policy of the
Department of Justice to release additional information,
particularly pertaining to the professional qualifications of
federal employees. Such information includes post-graduate or
technical education in preparation for the employee's profession,
prior government employment and private sector employment
relating to an employee's duties. See Department of Justice,
Office of Information and Privacy, FOIA Update, Vol. III, No. 4

(Sept. 1982), p.3.1

The appropriate test for determining whether information from an SF-171 should be disclosed under case law and the Department of Justice guidelines is whether the information directly pertains to the qualifications for federal employment. I cannot agree with your formulation that all information contained in an SF-171 is relevant to the conditions of employment, leading to the disclosure of the entire SF-171 in all cases.

Items 12, 14, 16, and 17(D) and (E) of the SF-171 were withheld as a viable privacy interest exists in such information. The Fort Worth Office did release information under Item 17 on the applicant's three most recent jobs, which were relevant to the qualifications for the positions, and withheld information on the applicant's first two jobs, which were not relevant for the position for which the applicant was selected.

The information you seek is contained in a HUD Privacy Act Systems of Records entitled "General Personnel Records," OPM/GOVT.-1, which includes Federal employees' official personnel records. See 55 F.R. 3838 (February 5, 1990). Since the information is included in a system of records and can be withheld under Exemption 6 of the FOIA, then under HUD's regulations at 24 C.F.R. 16.1(e)(3), the Privacy Act governs the public interest determination and compels the withholding of the information.

You have the right to judicial review of this determination under 5 U.S.C. Section 552(a)(4).

Very sincerely yours,

Shelley A. Longmuir
Deputy General Counsel

cc: Yvette Magruder
     William Daley

1In addition, the guidelines state that a federal employee's home address and telephone number, medical records, prior employment not related to the employee's occupation, and primary, secondary and college education should be withheld. Id.