



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

October 15, 2014

In reply refer to: FOIA #BPA-2013-01310-F

Mr. Ted Sickinger
The Oregonian
1500 SW First Avenue, Suite 400
Portland, OR 97201

Due to the size of the responsive documents they cannot be posted. To obtain a copy please contact the BPA FOIA Office at 503-230-5273.

Mr. Sickinger,

This is a final response to your request for Bonneville Power Administration (BPA) records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in our office on July 17, 2013, with an acknowledgement letter sent to you on July 26, 2013.

You requested the following:

“[E]lectronic copies of all e-mail to and from Anita Decker between February 2013 to present that mentions the Office of Inspector General (OIG), the U.S. Office of Personnel Management (OPM) or DOE Human Capital, or any inquiries, reviews and investigations into BPA hiring and promotion practices.”

Response

We have located 471 pages of material responsive to your request. Some of the documents contain yellow highlights that are not part of the FOIA review process. We are releasing 278 pages in full, withholding 49 pages in full and releasing 131 pages with redactions under Exemptions 5 and 6. We have also not produced 13 pages that were duplicative of other pages within this final release.

The Freedom of Information Act generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” In plain language, the exemption protects privileged documents. The deliberative process privilege protects the decision-making processes of government agencies. Records protected under this privilege must be (1) pre-decisional – created before the adoption of an agency policy or course of action, and

(2) deliberative – making recommendations or expressing opinions on a legal or policy matter. In this case, we assert Exemption 5 to protect draft memos, messages and documents, as well as internal discussion about handling certain events and issues.

Exemption 5 also protects records that qualify as privileged under attorney-client privilege. This privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. The privilege encompasses facts provided by the client and opinions provided by the attorney. In this case, we assert Exemption 5 to protect a limited amount of advice provided by BPA attorneys on legal matters related to hiring and OIG complaints.

Exemption 6 protects information in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. § 552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to redact the following items:

- (1) Personal, non-government e-mail addresses and contact information,
- (2) The names of employees who have or may have acted as whistleblowers,
- (3) The names of employees who have or may have filed Equal Employment Opportunity cases,
- (4) The names of lower-level employees facing investigations, discipline, or re-certification, and
- (5) Details that would permit identification of the above employees, including supervisor names and assignment specifics.

For item 1, we find no public interest in this information. For items 2-5, we find that the limited public interest does not outweigh the privacy concerns of the individuals at issue. Material that falls under Exemption 6 may not be discretionarily released, and therefore it is withheld.

Appeal

This is our final response to your July 17, 2013 request. Pursuant to Department of Energy FOIA regulations at 10 C.F.R. § 1004.8, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

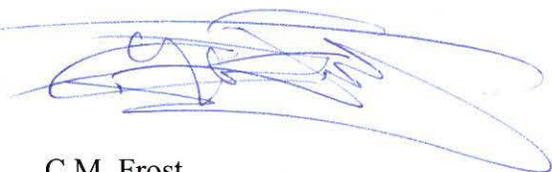
- (1) The nature of your appeal - denial of records, partial denial of records, lack of responsive records, or denial of fee waiver;
- (2) Any legal authorities relied upon to support the appeal; and
- (3) A copy of the determination letter.

Clearly mark both your letter and envelope with the words "FOIA Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals:
Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Kim Winn, FOIA Public Liaison, at (503) 230-7305.

Sincerely,



C.M. Frost
Freedom of Information Act Officer

Enclosure(s):
Responsive Documents