



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 3 1 2003

Ms. Libby Chandler, President
National Federation of Federal Employees
Local 1309
P.O. Box 710382
Herndon, VA 20171-0382

Dear Ms. Chandler:

This constitutes my decision on your March 12, 2003 appeal of the U.S. Geological Survey's (USGS) response to your challenge of its inventory of commercial activities. My review of your appeal has included a reexamination of your January 6, 2003 challenge, USGS's February 19, 2003 response to your challenge, and consideration of whether USGS's actions have been in accordance with the FAIR Act and pertinent Office of Management and Budget (OMB) Circular A-76 guidance.

Your appeal raised three issues: (1) clarifying which 2002 FAIR Act Inventory – USGS internal website or the Department's public website – is the correct inventory; (2) coding the USGS Historian as inherently governmental instead of commercial; and (3) revisiting the specific work examples of the librarians located at the USGS Reston Library for classification as inherently governmental instead of commercial. I will respond to each of these issues in turn.

(1) Which inventory is correct – the USGS internal website or the Department's public website?
The 2002 FAIR Act Inventory published on the Department's public website is the Department of the Interior's (DOI) official inventory. The Department does not preclude the USGS from posting the USGS inventory on its internal website, however, that inventory must be the same as the official inventory published on DOI's public website. We discussed this issue with USGS. USGS acknowledges that the inventory on its internal website is incorrect and will remove this inventory from its website to avoid further confusion.

(2) Coding the USGS Historian as inherently governmental instead of commercial.
As you mention in your appeal, if the official 2002 FAIR Act Inventory is the inventory published on the Department's public website, the USGS Historian would be coded inherently governmental and further appeal is unnecessary. The official inventory is the inventory posted on the Department's public website; therefore, further discussion on the issue is not required. However, based on our review of the USGS Historian's duties, it was unclear whether the duties listed were those duties of the position or were duties the incumbent had assumed due to his unique qualifications and knowledge of USGS's history and operations. The classification of this position as inherently governmental or commercial should be based on the duties of the position itself, not on the incumbent's unique qualifications. Therefore, we have asked USGS to

ensure that the duties and responsibilities of the position itself remain separate from the duties and responsibilities the incumbent has assumed.

(3) Revisiting work examples of the USGS Reston Library librarians.

You assert the librarian positions at the USGS Reston Library are inherently governmental because they:

- Interpret and execute laws of the United States;
- Perform management, procurement, and contracting functions;
- Have access to procurement or competition sensitive documentation; and
- Have access to personal information.

We reviewed the specific work examples you provided against the criteria for determining inherently governmental functions and the sample list of inherently governmental functions found at Appendix 5 of OMB Circular A-76, Revised Supplemental Handbook (March 1996). Based on our analysis, we have determined that the work of librarians at the USGS Reston Library is largely commercial. Our analysis of each work example is enclosed.

Accordingly, I am fully upholding your appeal on issues one and two, and partially upholding your appeal on issue three. I will advise USGS to review their official 2002 FAIR Act inventory, ensuring that it reflects this decision, and to forward any required changes to the inventory to the Department of the Interior, Office of Acquisitions and Property Management.

Under the FAIR Act, Section 3(e), this decision is final. We have worked diligently through the Departmental Council on Labor-Management Cooperation to ensure that union and management representatives are encouraged to facilitate a better competitive sourcing process, and to ensure that employee rights are protected. We are also mutually committed to support the goal of finding and implementing the best, most cost-effective ways to provide quality products and services to our customers.

Thank you for your interest in the programs and mission of the Department of the Interior.

Sincerely,



P. Lynn Scarlett
Assistant Secretary
Policy, Management and Budget

Enclosure

cc: Carol Aten, USGS

