

## **U.S. Office of Personnel Management**

### **THE GUIDE TO PROCESSING PERSONNEL ACTIONS**

#### **Subchapter 4. The Entry on Duty Process for New Employees**

##### **4-3. Entrance on Duty (EOD)**

###### **c. Oath of Office**

As part of the entry-on-duty process, the employee takes the oath of office. The Standard Form 61, Appointment Affidavit, contains the oath of office (part A) required by 5 U.S.C. 3331, the affidavit on striking against the Federal Government (part B) required by 5 U.S.C. 7311, and the affidavit on purchase and sale of office (part C) that 5 U.S.C. 3332 requires officers to complete.

(1) The form is completed and filed on the right side of the Official Personnel Folder when the employee is first appointed in the Federal Government and for each subsequent new appointment in any agency (including appointment by transfer, reinstatement, and restoration). A Standard Form 61 is not required when there is a change in an employee's status (such as a conversion to a new appointment) as long as service is continuous in the same agency. A new Standard Form 61 is not required when the employing office or agency changes as a result of a transfer of function, either. However, an agency may request that the form be completed even if it is not required.

(2) The oath and affidavits are executed when the appointee enters on duty and are given by a notary or by a Federal official or employee of your agency who has, or has been delegated, responsibility to administer oaths (see 5 U.S.C. 2903). United States citizens must swear to or affirm the oath of office and the affidavit in part B; aliens must swear to or affirm the affidavit in part B.

Persons appointed as “officers” must swear to or affirm the oath of office and the affidavits in parts B and C. (“Officers” are justices and judges of the United States and individuals who are required by law to be appointed by the President, a court of the United States, the head of an Executive agency, or the Secretary of a military department; persons appointed as “officers” are invested by law with authority delegated from the heads of departments or independent establishments.)

**(3)** If the appointee objects to the form of the oath on religious grounds, certain modifications may be permitted pursuant to the Religious Freedom Restoration Act. Please contact your agency’s legal counsel for advice. The jurat at the bottom of the form must be signed by each appointee and completed by the person who administers the oath or affidavits.

**(4)** The Civil Service oath of office in part A contains the phrase “defend the constitution.” In the case of *Girouard vs. United States*, 328 U.S. 61 (1946), the U.S. Supreme Court held that the oath of allegiance to the United States of American [*sic*] (taken by all candidates for citizenship) “does not in terms require that they promise to bear arms.” Explain to any appointee who questions the meaning of, or objects to, that part of the oath that the “defend the Constitution” phrase in the Civil Service oath of office does not imply that the appointee would be expected to bear arms.

**(5)** Obtain an original and a copy of the Standard Form 61 when the oath and affidavits are executed by cabinet officers and heads of independent establishments, agencies, and offices. After the oath has been taken and the form executed, send the copy to the Department of State.