



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3371

Subject: The Department of the Interior Freedom of Information Act Program

Sec. 1 Introduction. The Freedom of Information Act (FOIA) is an integral part of the Department of the Interior's (Department) operations and cross-cuts all of the Department's programs and initiatives. A stable, agile, and secure FOIA program is necessary to ensure effective compliance with the FOIA. It is the responsibility of every employee to cooperate with FOIA staff throughout the Department, including timely producing agency records that are responsive to FOIA requests and assisting FOIA staff with understanding the program interests the responsive records impact.

Sec. 2 Purpose. The Department is fully committed to an equitable FOIA program that ensures compliance with statutory requirements of transparency, accountability, and prompt production. The decentralized manner in which the Department's FOIA operations are currently managed creates challenges for coordination and accountability. Exponential increases in requests and litigation have made improvements to the program a priority. The Office of the Solicitor (SOL) has established a strong legal framework for, and expertise in, the FOIA; there is a logical legal and policy nexus between SOL and the FOIA (particularly given SOL's ongoing interface with the Department of Justice on litigation and other matters).

This Order designates the Solicitor as the Chief FOIA Officer; creates the position of Deputy Chief FOIA Officer (DCFO); establishes a reporting relationship for the Departmental FOIA Officer and Bureau FOIA officers with the DCFO; and creates a team to provide strategic direction for selected FOIA requests that impact Department-level interests.

Sec. 3 Background. From Fiscal Year (FY) 2016 to FY 2018, incoming FOIA requests to the Department increased 30 percent (from 6,428 to more than 8,350). Some Bureaus and Offices have been hit especially hard. The Office of the Secretary (OS) FOIA Office, for example, has received a 210 percent increase in FOIA requests from FY 2016. The Department's attempts to respond accurately, completely, and in a timely manner to every request have been further hindered by the dramatic increase in litigation, particularly over Bureau non-response to initial FOIA requests. For example, at the close of FY 2018, the Department had a total of 129 active FOIA cases in litigation (39 in OS alone) compared to a total of just 6 cases in litigation at the close of FY 2015 and a total of 30 cases in litigation at the end of FY 2016.

The Department processed more than 6,900 requests in FY 2018, compared to 6,437 in FY 2016. Despite the increased production, the Department's backlog of requests without at least a partial response has also increased. It is clear that some aspects of the FOIA program's decentralized structure hinder efficient and effective management of operations in the current environment. Different reporting structures across Bureaus, varying sets of operating

procedures, and insufficient levels of accountability contribute to the need for Department-wide clarification of the roles and responsibilities of the FOIA program.

Sec. 4 **Authority.** This Order is issued under the authority of the Freedom of Information Act, as amended (5 USC 552), and section 2 of Reorganization Plan No. 3 of 1950 (64 Stat.1262), as amended.

Sec. 5 **Roles and Responsibilities.** Provided below are descriptions for the primary roles and responsibilities of the FOIA program:

a. Chief FOIA Officer. The Solicitor is hereby designated as the Chief FOIA Officer.

b. Deputy Chief FOIA Officer. The position of the Deputy Chief FOIA Officer (DCFO) is hereby established. The DCFO shall report to the Solicitor and oversee the Department's FOIA program, which may include establishing FOIA policies, procedures, and practices, and directing the activities of the FOIA program throughout the Department in consultation with, as appropriate, the Deputy Bureau Directors. The DCFO may also assume control over any aspect of any FOIA request in the Department, with the exception of those sent to the Office of the Inspector General (OIG). The DCFO will manage, and determine when to utilize, the FOIA Assistance Coordination Team (FACT).

c. DCFO. The DCFO shall provide appropriate guidance to the Departmental FOIA Officer and have a reporting relationship with the Departmental FOIA Officer, including approving the annual performance plan, providing input into the progress review and rating narrative, and approving the final rating.

d. Bureaus. Each Bureau shall have a full-time Bureau FOIA Officer who is responsible for their Bureau's FOIA functions and shall have, with the exception of the Bureau FOIA Office for the OIG, a dual reporting relationship to the DCFO and their respective Bureau Deputy Director. With the exception of the Bureau FOIA Office for OIG, the DCFO will approve Bureau FOIA Officers' annual performance plans, provide input into progress reviews and rating narratives, and approve the final rating. Bureau Deputy Directors will assess, ensure, and report their Bureau's FOIA compliance to the Chief FOIA Officer.

e. FACT. This Order establishes the FACT.

(1) The FACT shall consist of the DCFO, a representative of the Division of General Law, the Departmental FOIA Officer, and additional members requested by the DCFO (including, as appropriate, FOIA professional or program experts from Bureaus affected by a FOIA request).

(2) Bureau FOIA Officers will be responsible for providing input into decisions of the FACT, when requested by the DCFO, and for executing all decisions affecting their Bureaus that are made by the FACT.

Sec. 6 **Implementation.** The Solicitor is responsible for implementing this Order. Heads of Bureaus must ensure completion of revisions to their Departmental Manual functional descriptions and Bureau manuals and policies to reflect the requirements/changes in this Order within 30 days of the effective date of the Order.

Sec. 7 **Effective Date.** This Order is effective immediately and will remain in effect until the provisions are converted to the Departmental Manual, or until it is amended, superseded, or revoked, whichever occurs first.

A handwritten signature in blue ink, appearing to be "D. K. Zinke", is written over a horizontal line.

Secretary of the Interior

Date: NOV 20 2018