



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

SEP 29 2015

The Honorable Ron Johnson  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510-6250

Dear Mr. Chairman:

This is in response to your June 23, 2015 letter requesting that the U.S. Department of the Interior Office of Inspector General conduct an inquiry into the Department's Freedom of Information Act (FOIA) Office. Your office granted us an extension to provide you this response.

Your letter asked us to determine whether political appointees have been involved in the FOIA response process and whether any such involvement resulted in any undue delay of a response to any FOIA request or the withholding of any document or portion of any document that would have otherwise been released but for the involvement of a political appointee in the process. You asked us to complete this analysis for the period for January 1, 2007, to the present.

We determined that the best way to gather information responsive to your request was to interview each of the FOIA officers in the Department along with other key personnel, and analyze certain FOIA data. To respond to this request, we performed those steps.

Given the Department's diverse missions and functions, it receives a large volume of FOIA requests; last fiscal year it received and processed over 5,500 FOIA requests and so far this year it has received over 6,500 requests. At the bureau and office level, FOIA Officers are responsible for tracking, managing, and responding to FOIA requests for records in their organization's possession and control, and administering their organization's FOIA programs. At the Department level, the Departmental FOIA Officer is responsible for developing policies and guidelines, providing support, and maintaining the Department's electronic FOIA tracking system. In 2011, changes were made to the Department's FOIA program that improved communication among FOIA Officers, reduced duplication of efforts, and improved the response rate.

We found that political appointees can and do become aware of certain FOIA requests. In most cases, they do not play any role in the response. Bureaus communicate with various levels within the Department regarding incoming FOIA requests. Department personnel in bureaus and offices communicate regarding various FOIA requests to be put on a "selected FOIA list," which generally is composed of matters currently in litigation and high profile or sensitive matters. Although political appointees may become aware of the requests by reviewing the list, we did not find evidence of systematic involvement in the timing or nature of the response.

We did find that on occasion, bureaus experienced delays in receiving documents from Department employees, including political appointees that are responsive to various FOIA requests. Also, it was reported to us that on one occasion release of documents was delayed by about 10 days for public safety reasons and to develop a strategy for handling release of information. However, we did not find evidence of involvement by political appointees that resulted in undue delay or withholding of any information that would have been released but for a political appointee's interference.

Our office conducted a similar inquiry in 2010, pursuant to Congressional request from Senator Grassley and Congressman Issa. Then we found that political appointees may be aware of FOIA requests but do not generally play a role in the response. We did learn of six outstanding FOIA requests that were submitted in 2004 that appeared to have been processed in an unusual way, and were considerably delayed (into the 2007-2015 period you asked us to look at), possibly due to political involvement. Although these requests have since been closed, we are enclosing a copy of that report for your review.

Regarding your request for a certified statement from a responsible Department official, we talked to the Deputy Solicitor for General Law in the Office of the Solicitor, Edward Keable. In this non-political Senior Executive Service position that he has held since March 2012, Mr. Keable oversees the responses to FOIA matters that are high profile, sensitive, or involve litigation. He also served as an Associate Solicitor in General Law since August 2009 with similar responsibilities. Based upon his experience dating back to 2009, Mr. Keable told us that, aside from the 2004 matter discussed in the paragraph above, he is not aware of any involvement by a non-career official at the U.S. Department of the Interior that has resulted in an undue delay in responding to a FOIA request or in a response to a FOIA request that contained less information than would have been provided but for the involvement of the non-career official. This is consistent with what we learned from our interviews of the bureau FOIA officers.

If you have any questions or need additional information, please do not hesitate to contact me or your staff may contact our General Counsel, Bruce Delaplaine, at (202) 208-5726.

Sincerely,

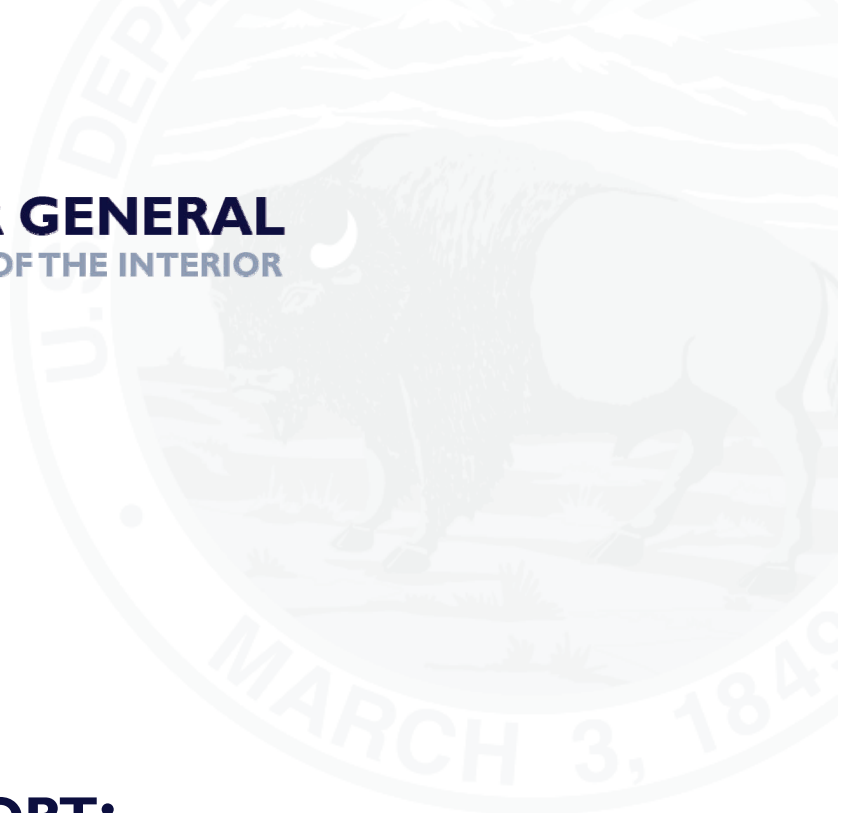


Mary L. Kendall  
Deputy Inspector General

Enclosure



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U.S. DEPARTMENT OF THE INTERIOR



# **INSPECTION REPORT:**

## FREEDOM OF INFORMATION ACT



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

OCT 25 2010

Memorandum

To: Secretary Salazar

From: Mary L. Kendall *Mary L. Kendall*  
Acting Inspector General

Subject: Inspection Report: Freedom of Information Act  
(Assignment No. ER-IS-MOA-0004-2010)

We received a congressional request on August 23, 2010, asking the Office of Inspector General to conduct an inquiry into the Department of the Interior (Department) Freedom of Information Act (FOIA) Office. Specifically, they asked us to determine whether political appointees are made aware of information requests and, if so, the extent to which they have a role in request reviews or decision-making.

We found that political appointees may be aware of FOIA requests, but in most cases do not have a role in the request reviews or decision-making. We did find, however, six outstanding requests submitted by a Los Angeles Times reporter back in 2004 that may have had direct political involvement. The unusual processing of these six requests and the considerable delays involved could indicate political appointee involvement. We were, however, unable to obtain definitive proof of such involvement. Overall, we did not find evidence of pervasive direct involvement in the request reviews or decision-making.

If you have any questions or need additional information, please do not hesitate to contact Kimberly Elmore, Assistant Inspector General for Audits, Inspections, and Evaluations, at 202-208-5512.

## **Introduction**

We performed this inspection in response to a congressional request. The request tasked the Office of Inspector General with conducting an inquiry into the Department of the Interior (Department) Freedom of Information Act (FOIA) Office. Specifically, we were asked to determine whether political appointees are made aware of information requests and, if so, the extent to which they have a role in request reviews or decision-making. To respond to this request, we performed an inspection in accordance with the “Quality Standards for Inspections” endorsed by the Council of Inspectors General on Integrity and Efficiency. Specifically, we interviewed officers from the Department FOIA Office and each FOIA office within the various Department bureaus and reviewed FOIA regulations, a FOIA tracking system, and select documents.

## **Background**

The organizational structure of the Department’s FOIA Program is similar to the decentralized structure of the Department itself. The Department’s FOIA website states that this structure offers the Department the most “effective and efficient system for compliance with all FOIA requirements, not just those that govern responses to individual requests.”

The Department’s diverse functions and the sensitive, high profile issues with which it deals, generate a large and increasing number of FOIA requests each year.

### **Department-level:**

The Department-level FOIA Program is responsible for developing policies and guidelines, providing support, and maintaining the Department’s electronic tracking system.

### **Bureau/Office-level:**

The Department has decentralized its FOIA operations among 11 bureaus and offices, each of which has a FOIA Officer leading its separately managed and resourced FOIA Program. These FOIA Officers are responsible for tracking, managing and responding to FOIA requests for records in their organization’s possession and control, and administering their organization’s FOIA programs.

## **Findings**

Overall, we found that political appointees may be aware of FOIA requests but in most cases they do not have a role in the request reviews or decision-making. In the case of the Deepwater Horizon incident, the Department has taken steps to coordinate responses to eliminate duplication. As a result, bureaus communicate incoming FOIA requests with various levels within the Department. Even so, although the political appointees may be aware of the requests, we did not find evidence of pervasive direct involvement in the request reviews or decision-making.

We did find, however, six outstanding requests that may have had direct political involvement. A Los Angeles Times reporter submitted these requests, dated January 13-16, 2004, to the Department FOIA Office. The reporter requested communications between the White House and high-ranking Interior officials on various politically sensitive topics.

The Office of the Secretary (OS) FOIA Officer informed us that the Department took 2 years to prepare the original responses to these requests. The responses were then sent to the White House, where they remained for another 2 years before being returned to the Department's Office of the Solicitor (SOL), where they remained for yet another 2 years. Recently, the OS FOIA Officer and the SOL revisited the requests and decided to release the responses, which were sent to the White House for review in July 2010, where they remain.

The unusual processing of these six requests and the considerable delays involved could indicate political appointee involvement. We were, however, unable to obtain definitive proof of such involvement.

## **Conclusion**

Overall, the Department's FOIA process has remained free from political influence. In rare circumstances that involved coordination with outside agencies, political involvement may have hindered the responses.

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