U.S. Department of the Interior

Chief FOIA Officer Report to the Attorney General

Office of the Chief Information Officer

Office of the Secretary

March 15, 2010

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PREFACE

The nature of the Department of the Interior's broad and diversified mission once earned it the nickname, "the Department of Everything Else." In addition, the Department's services and programs are geographically dispersed across the U.S., Puerto Rico, U.S. Territories, and Freely Associated States. To understand the Department's Freedom of Information Act (FOIA) Program, readers of this report should keep these innate characteristics in mind. They should also consider the complexities inherent in managing one-fifth of the nation's land, 35,000 miles of coastline, and 1.76 billion acres of the Outer Continental Shelf.

The Department of the Interior (DOI) is responsible for maintaining and improving America's natural and cultural resources, economic vitality, and community well-being through its various services and programs. Its array of customers include park visitors, wildlife observers, sportsmen, stockmen, miners, Tribes, individual Indians, state and local communities, farmers and electric power users. DOI has decentralized its FOIA operations among 11 bureaus and offices, each of which has a Bureau/Office FOIA Officer leading its FOIA Program.

Because of DOI's vast mission and the many sensitive, high profile issues it deals with, the 11 DOI FOIA programs have and will continue to receive large numbers of requests from a broad spectrum of requesters. Some of the issues the Department handles include climate change, domestic energy production, protection of endangered species, land and water management, and fulfillment the Government's obligations with regard to the Native American Nations, to name a few.

These factors present immense challenges for achieving compliance with the FOIA across the Department. While it is committed to ensuring the public gets access to the information to which it is entitled by law, the Department also has an obligation to protect national resources in accordance with its mission.

This report is comprised of 13 individual reports, including one prepared at the Departmental level describing actions taken by the Chief FOIA Officer and the Department's FOIA policy staff to ensure overall Departmental compliance with the FOIA and applicable Administration policy. In addition, reports were prepared by each of the 11 bureaus and offices that are responsible for receiving and responding to requests for Department records and that administer their own FOIA programs. Finally, the FOIA Appeals Office within the Office of the Solicitor prepared a report addressing FOIA appeals made to the Department.

Chief FOIA Officer Report to the Attorney General

U.S. Department of the Interior (DOI)
Office of the Chief Information Officer/Chief FOIA Officer

I. DEPARTMENTAL STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENNESS

1. Steps Taken to Apply the Presumption of Openness

January 22, 2009: The DOI FOIA policy staff within the Office of the Chief Information Officer sent copies of the President's *FOIA* and *Transparency and Open Government* memoranda to Bureau/Office FOIA Officers.

February 2009: The DOI FOIA policy staff met with the Bureau/Office FOIA Officers to review the President's FOIA memorandum.

March 2009:

- The DOI FOIA policy staff briefed the DOI Chief Information/FOIA Officer and the Deputy Chief Information Officer (CIO) on the President's and Attorney General's policy guidance and pertinent aspects of the Department's FOIA Program.
- The DOI FOIA policy staff briefed DOI employees attending the American Society of Access Professionals Symposium in Las Vegas on the Administration's new policy and its implications for DOI's FOIA Program.

April 2009: The DOI Chief FOIA Officer addressed a meeting of Bureau/Office FOIA Officers and expressed his commitment to FOIA principles. He acknowledged the important role the FOIA Officers play in ensuring proper FOIA implementation; stressed the importance of backlog reduction, proactive disclosures and customer service; and encouraged collaboration with FOIA attorneys, especially with regard to the new guidelines, and with other DOI offices. At this meeting, the DOI FOIA policy staff also briefed participants on the FOIA Guidelines that the Attorney General issued in March 2009.

May 2009:

- The DOI FOIA Officer briefed the Bureau/Office CIOs on the Administration's policy guidance.

- The DOI FOIA policy staff briefed DOI and Bureau/Office Communications Directors on the Administration's policy guidance.

- The DOI FOIA Appeals Officer issued guidance to bureaus and offices on preparing foreseeable harm statements for FOIA appeals.

July 2009: The Secretary sent a memorandum to all Department employees calling upon them to commit to making responses to FOIA requests a priority and to work collaboratively with their FOIA personnel and public affairs staff to bring about a new era of open Government. (The Secretary's memorandum is available on the Web at http://www.doi.gov/foia/policy.html in the *Interior Policies, Procedures and Guidance* section.)

August 2009:

- The Deputy Secretary sent a memorandum to all assistant secretaries and bureau heads to draw attention to the Secretary's July 2009 message to all employees on proper implementation of the FOIA. He stressed the vital importance of their commitment to fully comply with the FOIA in accordance with the law and the Secretary's and the Administration's memoranda. The Deputy Secretary also encouraged employees to read the original memoranda, which are posted on the Department's FOIA website at the link provided above. (The Deputy Secretary's memorandum is also posted at the link above.)

- The DOI FOIA policy staff conducted a FOIA training session for National Park Service employees in the Northeast Region that included an overview of the Administration's policy guidance.

October 2009: The DOI FOIA policy staff issued interim guidance on the procedures for making discretionary disclosures in initial FOIA reviews.

November 2009: The DOI FOIA policy staff conducted an onsite FOIA training session for U.S. Geological Survey FOIA and managerial personnel at headquarters that included an overview of the Administration's policy guidance.

February 2010: The Department established an Open Government Core Team comprised of representatives from all DOI bureaus and offices to implement the OMB Open Government Directive and create mechanisms for greater proactive disclosures and collaboration with the public through new media tools.

Additional Steps:

- The DOI Chief FOIA Officer will issue a directive within the next few weeks that provides review guidance to bureaus and offices for implementing the Administration's FOIA policy with regard to discretionary disclosures and the foreseeable harm standard. As of March 1, 2010, the draft directive is in the final stages of clearance.

- The Department posted copies of President Obama's and Attorney General Holder's memoranda on the Department's FOIA Internet website so it is accessible to bureaus and offices and the public.

- On an ongoing basis, the principles set forth in the Administration's FOIA policy guidance are routinely discussed and reiterated in the technical assistance and guidance that the DOI FOIA policy staff provides to bureaus and offices when appropriate.

- The Department is developing a computer-based training (CBT) module for Departmental FOIA personnel, including guidance for implementing the Administration's FOIA policy guidance.

It has been longstanding DOI policy to provide the greatest access possible to DOI records and information that are requested under the Act. Although there may have been times when an individual bureau or office has withheld more information under the discretionary exemptions (i.e., exemptions 2, 5, 7 and 9, generally) than it would at the present time, we believe that those would have been isolated instances. This makes it difficult to point to any specific examples of discretionary disclosures of records made under the Administration's new FOIA guidelines. For specific examples of discretionary disclosures, see the individual bureau/office reports.

2. DOI Experienced an Overall Increase in the Number of Full/Partial Grants from FY 2008 to FY 2009. (See charts A and B below.)

As Chart A on page 5 indicates, overall full grants for DOI increased by 16% and partial grants decreased by 4% from FY 2008 to FY 2009. DOI's combined partial and full grants increased by 10%. Chart B illustrates the Department's overall performance in this area. These results are not surprising in light of Department's continuing practice to release as much information as possible, including instances where discretionary exemptions may have applied. However, these statistics are often affected by the type of information that is requested rather than by agency practice because some FOIA exemptions do not permit discretionary disclosures. For example, information requiring protection to prevent the unwarranted invasion of an individual's personal privacy covered by FOIA Exemption 6 is usually not subject to discretionary disclosure. Forty-four percent (44%) of all of the exemptions cited by DOI in response to requests during FY 2009 were Exemption 6 withholdings. Seventy percent (70%) of the exemptions DOI cited in FY 2009 were of the nondiscretionary type (i.e., exemptions 1, 3, 4, 6 and 7C). (See the Department's FY 2009 FOIA Annual Report, Chart B(3), posted on the Web at http://www.doi.gov/foia/09anrep.pdf.)

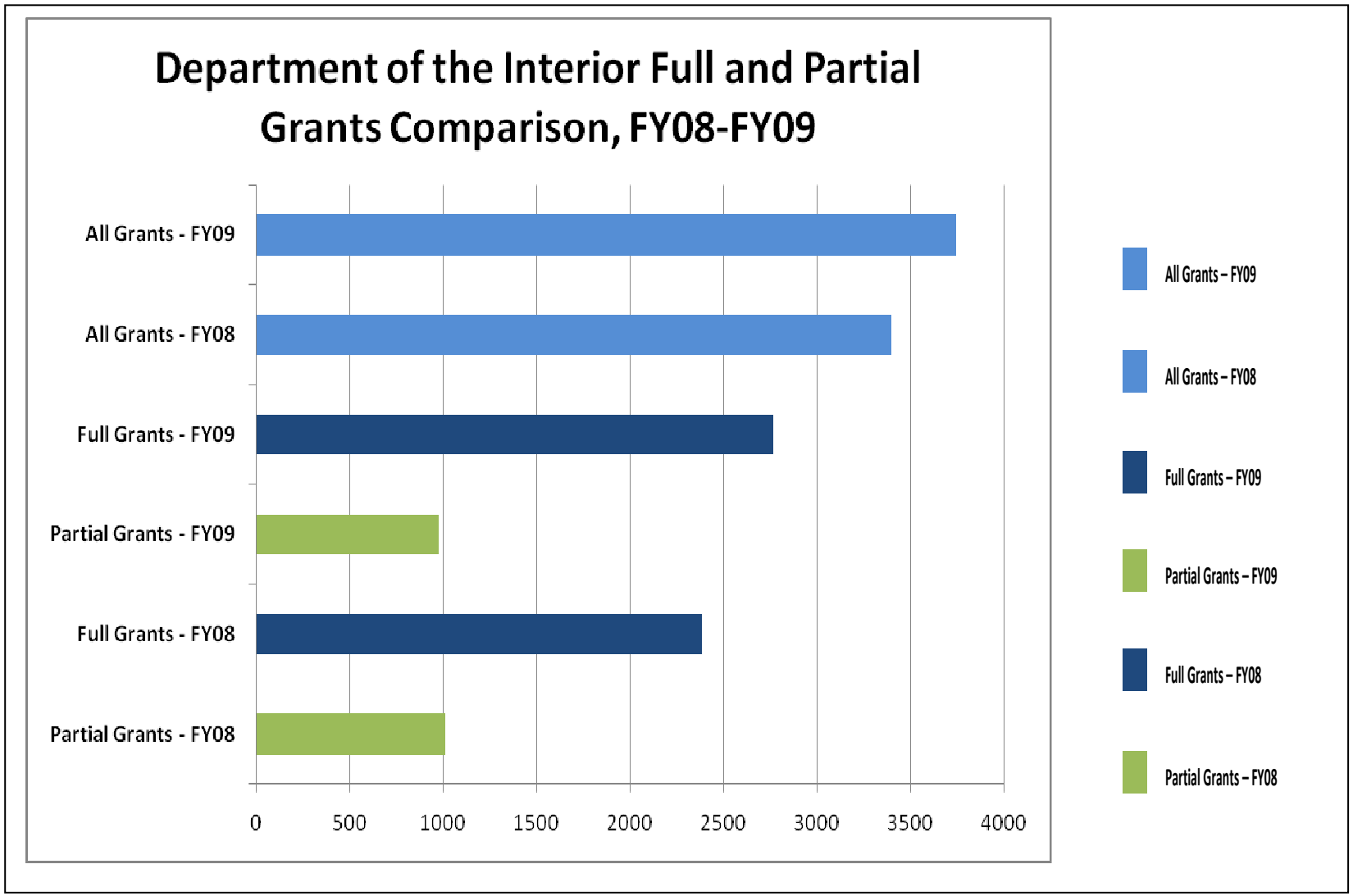
CHART A

U.S. Department of the Interior

Comparison of Full and Partial FOIA Grants
FY 2008 to FY 2009

Bureau/ Office	Total Processed Requests		Number of Partial Grants		Percentage +/-	Number of Full Grants		Percentage of +/-	Partial + Full Grants	Partial + Full Grants
	FY08	FY09	FY08	FY09		FY08	FY09		FY08	FY09
BIA	923	1004	206	249	+21	394	495	+25	600	744
BLM	996	922	277	264	-5	500	408	-18	777	672
BOR	187	198	26	21	-19	118	124	+5	144	145
FWS	790	1160	89	122	+37	548	804	+47	637	926
MMS	183	218	38	33	-13	103	134	+30	141	167
NPS	850	859	213	163	-25	485	559	+15	698	722
OIG	73	79	22	33	+50	5	3	-40	27	36
OS	476	391	79	47	-41	119	130	+9	198	177
OSM	56	35	10	2	-80	29	26	-10	39	28
SOL	66	75	22	10	-55	15	23	+53	37	33
USGS	150	147	30	30	0	67	60	-11	97	90
DOI TOTAL	4750	5088	1012 = 21% of FY 2008 Processed Requests	974 = 19% of FY 2009 Processed Requests	-4	2383 = 50% of FY 2008 Processed Requests	2766 = 54% of FY 2009 Processed Requests	+16	3395	3740
									Combined partial and full grants increased 10% increase from FY 2008 to FY 2009	

CHART B


Department of the Interior Full and Partial Grants Comparison, FY08-FY09
All Grants - FY09
All Grants - FY08
Full Grants - FY09
Partial Grants - FY09
Full Grants - FY08
Partial Grants - FY08
0
500
1000
1500
2000
2500
3000
3500
4000
All Grants – FY09
All Grants – FY08
Full Grants – FY09
Partial Grants – FY09
Full Grants – FY08
Partial Grants – FY08

II. DEPARTMENTAL STEPS TAKEN TO ENSURE DOI HAS AN EFFECTIVE SYSTEM FOR RESPONDING TO REQUESTS

Structure of the Department's FOIA Program

The structure of the Department's FOIA Program supports an effective and efficient system for compliance with all FOIA requirements, not just those that govern responses to individual requests.

DOI Chief FOIA Officer

Pursuant to Executive Order 13392 and subsequently the OPEN Government Act of 2007, DOI's Chief Information Officer (CIO) has been designated as the Chief FOIA Officer for the Department. A Department-level FOIA program team within the Office of the Chief Information Officer (OCIO) serves as the Department's FOIA policy staff. The DOI FOIA policy staff assists the Chief FOIA Officer in carrying out his responsibilities.

Departmental FOIA Policy Staff

The DOI FOIA policy staff:

- Develops policies, regulations, guidelines, procedures and standards for DOI FOIA implementation
- Maintains the www.doi.gov/foia/ website and Electronic Reading Room
- Provides program oversight, technical assistance and formal training to DOI FOIA personnel and others
- Manages the electronic FOIA tracking system (EFTS) – a centralized, web-based application that provides for standardized tracking and reporting of FOIA requests DOI-wide and adherence to DOI FOIA regulations
- Prepares the Department's FOIA annual report based on data entered into the EFTS by FOIA personnel in the 11 bureaus and offices
- Helps coordinate high profile or multi-bureau request issues

FOIA Regulations/Policies

In 2009, the DOI FOIA policy staff updated the Department's FOIA regulations (43 CFR Part 2, Subparts A-E) to incorporate OPEN Government Act definitions for "representative of the news media" and "freelance journalist" and to update contact information and clarify other procedural requirements.

The DOI FOIA policy staff also developed the Department's FOIA Handbook – a comprehensive procedural manual containing uniform DOI standard operating procedures and

guidelines for processing FOIA requests that is used by all of DOI's bureaus and offices. This resource, along with other guidance documents, is posted on the Department's FOIA website for easy access by bureaus/offices as well as the public.

As part of its *Improvement Plan* under Executive Order 13392, the DOI FOIA policy staff created a checklist for bureaus and offices to follow when submitting documents to the Office of the Solicitor for review. The checklist helps ensure that offices include everything SOL needs to complete its review and allows FOIA attorneys to quickly locate what they need within the review package. Thus, the checklist has helped to improve efficiency in FOIA review process.

Bureau/Office FOIA Programs

DOI's FOIA operations are highly decentralized. By Secretarial Order (S.O. 3244 dated November 12, 2002) all of the Bureau/Office FOIA Offices, except for BIA's and OIG's, are located within their respective CIO's Office. The Bureau/Office CIOs report to the DOI CIO in accordance with the Clinger-Cohen Act. Thus, this arrangement provides a common thread that links DOI's FOIA Offices with one another as well as with the DOI Chief Information/FOIA Officer. Each Bureau/Office FOIA Program is separately managed and resourced. In the highly decentralized environment in which the Department operates, this structure promotes consistency and common purpose among the FOIA offices of mission-diverse organizations and helps ensure they receive the necessary IT support.

All FOIA and Privacy Act (PA) requests for Department records will be directed to the appropriate Bureau/Office FOIA Officer. Depending on the individual bureau or office, responses to requests may be made by the Bureau/Office FOIA Office at headquarters or in the field, or by the program office that maintains the requested records.

At the bureau/office level, designated Bureau/Office FOIA Officers are responsible for day-to-day FOIA operations within their respective organizations. These officials will issue additional policies and guidance for use by offices within their own organizations when necessary to ensure that FOIA requests are handled appropriately by bureau/office personnel. They also serve as FOIA Public Liaisons for their own bureaus/offices and provide training for their employees, often in collaboration with the DOI FOIA Policy Office and Office of the Solicitor (SOL).

The Office of the Solicitor (SOL)

SOL supports the Department's FOIA Program by providing legal interpretations of the FOIA and guidance to bureaus and offices, as well as the DOI FOIA policy staff. SOL provides legal reviews of FOIA initial determinations and appeals, as necessary, assists in developing DOI's FOIA regulations, and handles FOIA/PA litigation for the Department. Along with the DOI FOIA policy staff and the FOIA Appeals Officer, SOL assists in training DOI personnel.

FOIA/PA Appeals Office

The Department's FOIA/Privacy Act (PA) appeals function is located in and administered by SOL. The Appeals Office receives, tracks, monitors and issues final determinations on all FOIA/PA appeals made to the Department.

Relationship of Departmental FOIA Program to Bureau/Office FOIA Programs

The DOI FOIA policy staff provides the regulatory and policy framework for the Department's FOIA Program. (The staff does not process any FOIA/PA requests or appeals.) Within this framework, each of the 11 component bureaus and offices operates its own FOIA program that is tailored to its organizational mission and structure.

Program Oversight and Reporting Structure

The Bureau/Office CIOs report to the DOI CIO quarterly on EGOV criteria. The Department has developed EGOV criteria for bureau/office FOIA performance that is included in these quarterly reports. The criteria are derived from EFTS reports and reflect both the status of bureau/office backlogs and performance in providing timely responses to requesters. In addition, each month the Bureau/Office FOIA Officers report to the DOI FOIA policy staff in the OCIO on their backlogs. This heightens awareness among the managers of the bureau/office FOIA programs about their backlogs, and allows the DOI FOIA policy staff to monitor trends or spikes in backlogs and the opportunity to work with bureaus and offices on ways to reduce backlogs.

Improving Responses through Technology

DOI provides requesters the option of using an electronic request form on its FOIA website to submit their FOIA requests online. Requesters electronically submit their requests to the specific bureau or office that maintains the records they seek. Their requests are received by the selected Bureau/Office FOIA Officer via email. This technology has greatly streamlined the receipt and acknowledgment of FOIA requests.

The Department employs a centralized, web-based electronic FOIA tracking system (EFTS) to electronically assign request numbers and track request data required for compilation of the FOIA annual report. All DOI bureaus and offices except OIG use the same system.[1] The system was designed to increase participation in information-sharing throughout the DOI FOIA program, eliminate redundancy, and provide greater accountability and consistency in responses while accommodating enhancements to meet future requirements. It allows bureaus/offices that

[1] OIG opted to purchase a standalone FOIA tracking system. Two bureaus (SOL and BIA) were only able to begin using the system near the end of FY 2009 due to restrictions placed on their use of the Internet under the *Cobell* litigation.

receive only a small number of FOIA requests to effectively participate in the program without paying a monthly fee. The EFTS provides management reporting capability for quarterly and *ad hoc* reports on bureau/office backlogs and performance in terms of overall response times. It also generates and compiles data needed to prepare the DOI FOIA Annual Report.

The DOI FOIA policy staff has developed a computer-based training module to be launched in FY 2010 that will provide training to all DOI FOIA personnel on FOIA requirements, DOI procedures, and the Administration's FOIA policy guidance. This will allow DOI FOIA personnel in remote areas and those in organizations with limited training funds to receive the training they need to properly and promptly respond to any FOIA requests they receive. It will also provide for greater compliance and consistency in the handling of all FOIA requests to DOI.

The Department has also established letter templates for FOIA responses that are available online at DOI's Intranet for use by DOI bureaus and offices. These templates simplify the drafting of responses to requesters.

III. DEPARTMENTAL AND BUREAU LEVEL STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

Open Government

The Department of Interior is actively working towards meeting all of the requirements of the Office of Management and Budget's (OMB) Open Government Directive (OGD). Issued on December 8, 2009, the Open Government Directive instructs Federal agencies to take specific steps to increase transparency as well as participation and collaboration in Government. The Open Government Directive requires Federal agencies to create an Open Government Webpage to serve as a gateway for agency activities related to the Open Government Directive and to develop and publish an Open Government Plan. DOI's Open Government Plan will describe the steps it will take to publish its information online and proactively identify high value information for publication. The Open Government Directive also requires each agency to publish its FOIA annual report in an open format on its Open Government Webpage.

On February 5, 2010, DOI announced the launch of its Open Government site (see announcement at http://www.doi.gov/news/doinews/Interior-Opens-Conversation-about-Open-Government.cfm). The DOI Open Government Webpage is located at www.doi.gov/open. DOI also has created an Open Government Core Team to develop its Open Government Plan. The Open Government Webpage actively engages the public in identifying the types of information and datasets that would be of interest to them and to solicit input in the development of the Open Government Plan.

Use of Social Media Tools to Promote Openness

The DOI has adopted use of four web tools that will help Americans connect with the nation's heritage, natural resources, and cultures while improving transparency and openness. The public is now able to follow DOI and its agencies on YouTube, Facebook, Flickr, and Twitter.

- **YouTube:** The DOI's new YouTube Channel (www.youtube.com/USInterior) will house videos produced by Interior and highlight videos produced by bureaus. Bureau channels include www.youtube.com/reclamation (Bureau of Reclamation), www.youtube.com/USGS (U.S. Geological Survey (USGS)), and www.youtube.com/NationalParkService (National Park Service).
- **Facebook:** Ken Salazar has joined his counterparts Secretary of Energy Steven Chu and Environmental Protection Agency Administrator Lisa Jackson on Facebook. The Secretary's Facebook page can be found at http://Facebook.com/SecretarySalazar. The Bureau of Reclamation and National Park Service also have active Facebook followings at http://www.facebook.com/bureau.of.reclamation and http://www.facebook.com/nationalparkservice, respectively.
- **Flickr:** The DOI launched a Flickr page at: http://www.flickr.com/photos/USInterior. DOI is using Flickr to post photos from the Secretary's events and active travel schedule. Future plans include posting historic photos from across the Department using Flickr Commons to provide greater access to our vast collections of historic and scientific photos.
- **Twitter:** The latest news, updates and happenings at DOI are now accessible via Twitter (http://www.Twitter.com/USInteriorNews). Bureau Twitter accounts include the Bureau of Reclamation (http://twitter.com/usbr), National Park Service (http://twitter.com/NatlParkService) and USGS (http://twitter.com/USGS). USGS is also using Recovery Funds to fund a graduate student project that will track responses to earthquakes via Twitter. In this exploratory effort, USGS is developing a system that gathers real-time, earthquake-related messages from the social networking site Twitter and applies place, time, and quantity data to provide geo-located earthquake detection within 60 seconds of an event's origin time. This approach also provides a central directory of short first-impression narratives and, potentially, photos from people at the hazard's location. The public can follow the project on Twitter at http://twitter.com/USGSted.

Data.gov

The Open Government Directive also required agencies to identify and publish online in open format at least three high-value datasets through Data.gov. As a leading partner in Data.gov, the Department has released a total of seven high value data sets. DOI is one of the largest contributors in the Federal Government to the overall number of datasets and tools accessible through Data.gov. DOI will continue to identify more opportunities for dataset publication and

has identified several more datasets that are of high interest to the public. Since the issuance of the Open Government Directive, DOI has published the following datasets:

- **Natural Resource Volunteer Opportunities**: The volunteer opportunities dataset provides information about more than a thousand natural resource volunteer opportunities and government points of contact (http://www.data.gov/details/1533). It was developed by multiple bureaus and offices.
- **Federal National Recreation Sites:** This dataset includes all Federal natural recreation sites across the country and recreation opportunities supported by the site. It was developed by multiple bureaus and offices (http://www.data.gov/details/1517).
- **Wild Horse and Burro:** This dataset includes herd information for Wild Horses and Burros on lands managed by the Bureau of Land Management (BLM) (http://www.data.gov/details/1534). It was developed by the BLM.

Upcoming Datasets

The Department has identified an additional 147 datasets for publication to Data.gov. These datasets have been submitted to the Data.gov Program Management Office (PMO) and are currently being reviewed by the PMO prior to their publication. A vast majority of the datasets consist of geospatial data supporting studies performed on critical or endangered species located on U.S. Fish & Wildlife Service critical habitats

Recovery.gov

DOI is also a major contributor to Recovery.gov. This website specifically provides the public with information about the implementation of the American Recovery and Reinvestment Act and how the stimulus funds are being used.

Improvements to DOI.gov

On its FOIA website, the Department provides access to frequently requested documents, such as DOI's FOIA annual reports dating from FY 1996 to FY 2009; a list of Department purchase cardholders; and the Department's Strategic Plan for FY 2010 – FY 2015 that provides information about proposed capital investments.

With regard to its main website, the Department uses technology to increase proactive disclosures to the public both by making information available online in advance of FOIA

requests, and by maximizing access to posted information through efficient website design that enables users to easily find what they are looking for.

DOI's home page at http://www.doi.gov often serves as the starting point for individuals seeking to learn about DOI generally, participate in one of its programs, or receive its services. The Department has been working to improve its home page to ensure users can readily find the information they need regardless of why they need it. Accordingly, DOI.gov has been redesigned as part of an initiative to enhance the Department's internal and external communications. The site is oriented toward helping members of identified target groups (i.e., the public, governments, businesses, Native Americans, tourists, employees, and the press and media) accomplish "top tasks" (e.g., reviewing Interior's Recovery Act projects, planning a visit to a National Park, or tracing Native American ancestry).

On DOI's "What We Do" page at http://www.doi.gov/whatwedo/, the Department has identified current hot topics, such as New Energy Frontier, Climate Change and Water Challenges, and linked them to DOI activities and programs. Users can "Learn More" about each hot topic using links that take them to website pages of DOI bureaus/offices that are directly involved in carrying out activities related to that particular topic as illustrated by the links in the chart below:

Bureau/ Office	Website	URL
BLM	New Energy for America – Renewable Energy Resources	http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html)
	Wind Energy	http://www.blm.gov/wo/st/en/prog/energy/wind_energy.html)
	Noxious Weeds & Invasive Species	http://www.blm.gov/nv/st/en/prog/more_programs/invasive_species.html
BOR	WaterSMART Program	http://www.usbr.gov/WaterSMART/
	Water-Related Databases	http://www.usbr.gov/
FWS	Climate Change	http://www.fws.gov/home/climatechange/
	National Conservation Training Center	http://training.fws.gov/CSP/Resources/csp_climate_change_series/index.htm
	Latest FWS Actions to Address Climate Change	http://www.fws.gov/southeast/climate/takingaction.html
USGS	Geologic CO2 Sequestration Research at the USGS	http://energy.er.usgs.gov/health_environment/co2_sequestration/
	Climate Change	http://www.usgs.gov/global_change/
	USGS Water Data Directory	http://water.usgs.gov/data/#now

New Policy to Report on Indian Trust Fund Operations, Receipts, and Payments

Additionally, DOI will provide regular status updates to the American public on the financial health and ongoing reforms of the American Indian trusts (http://www.doi.gov/archive/news/09_News_Releases/080709b.html).

IV. DEPARTMENTAL STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

1) **Does your agency currently receive requests electronically?** Yes. In 2008, the Department established an electronic FOIA request form accessible at http://www.doi.gov//foia/. The request form is completed online and is electronically transmitted as an email to the Bureau/Office FOIA Officer for the bureau/office selected by the requester. DOI also accepts written FOIA requests submitted via fax, postal mail and email.

2) **If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?** Not applicable.

3) **Does your agency track requests electronically?** Yes. The Department's electronic FOIA tracking system (EFTS) centrally tracks the receipt of and response to all FOIA requests submitted to DOI FOIA Offices, except for the Office of Inspector General (OIG) FOIA Office. (The OIG FOIA Office maintains a separate standalone tracking system.)

4) **If not, what are the current impediments to your agency utilizing a system to track requests electronically?** Not applicable.

5) **Does your agency use technology to process requests?** Yes and No. The EFTS assigns each request a unique number and tracks the request's receipt, status (i.e., open or closed), and final response determination. The system also allows FOIA personnel to upload a scanned copy of the request and final response. It allows system users to identify duplicate requests, list requests by bureau/office and prioritized by processing track and date received, generate a form acknowledgement letter, and store an electronic copy of the acknowledgment and final response correspondence. A separate set of software available to DOI bureaus/offices performs electronic secure redaction of imaged documents. Not all bureaus/offices have opted to use this specific software. Some use their own redaction methods. DOI neither currently tracks every phase of request processing nor does it track the number, type and individual disposition of responsive FOIA documents. Currently, all bureaus/offices except OIG are using the EFTS. Two offices only began using the EFTS at the end of FY 2009 because of a court order that had restricted their Internet access for years due to the *Cobell* lawsuit regarding Indian Trust information.

6) **If not, what are the current impediments to your agency utilizing technology to process requests?** The Department is considering adding a business process workflow module to the EFTS to automate more steps in the process, both as a streamlining measure and as a means of better pinpointing bottlenecks in order to direct needed attention and/or resources to where they will have the greatest impact. The funding for

this effort has not yet been approved. The Department also plans to provide a public interface to the EFTS in FY 2010 so that requesters can obtain the status of their FOIA requests online.

7) **Does your agency utilize technology to prepare your agency Annual FOIA Report?** Yes. As noted above, the EFTS generates the data used in preparing DOI's FOIA Annual Report. In 2008 and 2009, modifications to the system were made to permit the breakdown of data in the report by the 11 bureaus and offices that accept and process FOIA requests, and to include the additional data elements required under the OPEN Government Act of 2007.

8) **If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?** Not applicable.

V. DEPARTMENTAL STEPS TAKEN TO REDUCE BACKLOGS AND IMPROVE TIMELINESS IN RESPONDING TO REQUESTS

1. Backlog in Terms of the Numbers and the Age of Requests and Appeals

Chart C below compares DOI backlog figures for requests and appeals in FY 2008 and FY 2009. The Chart indicates that the backlog of appeals decreased by 19% over this period, while the backlog of requests increased by 14% between FY 2008 and FY 2009.

Although the number of DOI FOIA personnel appears to have increased significantly between FY 2008 and FY 2009, when comparing FY 2009 to FY 2007 (see DOI's FY 2007 FOIA Annual Report at http://www.doi.gov/foia/report.html), personnel totals decreased by 17%.

Although the overall DOI backlog increased by 14% from FY 2008 to FY 2009, the 14% equates to a difference of only 91 requests. Given the range and complexity of the issues involved in reviewing documents for release, the need to coordinate responses with interested offices and agencies, the increase in the number of requests received, and other factors discussed in Subsection 2 of this Report (below), this modest increase in the backlog is not surprising.

CHART C

COMPARISON OF FY 2008 TO FY 2009 REQUESTS/APPEALS BACKLOG STATISTICS						
Bureau/ Office	Number of Backlogged Requests at End of FY 2008	Number of Backlogged Requests at End of FY 2009	Percentage +/- Change in Request Backlog	Number of Backlogged Appeals at End of FY 2008	Number of Backlogged Appeals at End of FY 2009	Percentage +/- Change in Appeals Backlog
BIA	121	100	-17%	537	437	-19%
BLM	46	47	+2%			
BOR	9	15	+67%			
FWS	84	71	-15%			
MMS	9	9	0%			
NPS	30	45	+50%			
OIG	252	253	+0.3%			
OS	46	154	+235%			
OSM	3	2	-33%			
SOL	70	61	-13%			
USGS	0	0	0%			
AGENCY OVERALL	666	757	+14%			

Chart D below reflects some improvement in terms of the age of the overall backlog. For example, the oldest request in FY 2009 was perfected in 2000 while the oldest request in FY 2008 was perfected in 1997. This three-year jump in the age of the oldest request is a likely result of the Department's continuous focus on completing the oldest requests and improving overall response times (discussed in greater detail Subsection 3 below).

CHART D

AGE OF FOIA BACKLOGS IN DOI BUREAUS AND OFFICES

Bureau/ Office	Oldest Request (by Date Perfected) & Number of Days Pending at End of FY 2008	Oldest Request (by Date Perfected) & Number of Days Pending at End of FY 2009
BIA	11/30/2006 **461**	4/30/2007 **609**
BLM	8/1/2006 **553**	5/29/2008 **336**
BOR	1/7/2008 **186**	4/7/2008 **373**
FWS	8/2/2006 **552**	**3/31/2006** **890**
MMS	10/29/2007 **231**	5/7/2009 **101**
NPS	8/25/2006 **535**	11/22/2006 **722**
OIG	5/5/1997 **2967**	8/14/00 **2289**
OS	1/13/2004 **1218**	**1/13/2004** **1468**
OSM	3/25/2008 **132**	7/21/2008 **300**
SOL	12/22/2005 **698**	8/3/2006* **801**
USGS	9/2/2008 **20**	9/17/2009 **9**
DOI Overall	5/5/1997 **2967**	8/14/00 **2289**

*This date is correct although it differs from the FY09 Annual Report due to a data entry error.

In May 2008, the Attorney General issued a requirement for agencies whose backlogs had increased over the previous two years to prepare and publish backlog reduction goals for FY 2008 through FY 2011. By the end of FY 2008, DOI had made a significant (26 percent) reduction in its overall backlog, far exceeding its published goal for that year. Thus, although DOI's backlog increased from FY 2008 to FY 2009, it still fell below DOI's published backlog reduction goal for FY 2009 (as projected in 2008).

2. Reasons for No Reduction in the Overall Backlog

In its *Report and Plan under E.O. 13392*, DOI closely examined the reasons why some bureaus had significant backlogs. During the current review of DOI FOIA operations, some of the same problems that were highlighted in the *Report and Plan under E.O. 13392* remain roadblocks to full FOIA compliance despite remedial action being taken. These include the fact that natural disasters or other newsworthy events can cause unforeseen, significant spikes in the number of FOIA requests received (e.g., Exxon Valdez oil spill, Hurricane Katrina, the status of certain endangered/threatened species, and wild horses and burros on public lands). This ebb and flow in processing is difficult to predict and mitigate given the highly decentralized nature of DOI's bureaus and offices. Also, the wide geographical areas that DOI programs and services cover as well as the various regional organizational structures within each bureau create additional processing challenges that exacerbate DOI's FOIA backlog.

In FY 2009, the number of FOIA requests received by the Department increased by 8 percent. Further, the requests the Department receives continue to be more complex and voluminous. Many of these requests require coordination with other components in DOI and other Federal agencies. Such requests take longer to process, which adds to the Department's FOIA backlog.

The backlog is also a result of the number of complex requests that DOI receives that may be litigation-sensitive and/or require multiple consultations with program offices and FOIA attorneys within DOI and other agencies. Having to manage many complex requests at once can slow down overall response times.

Departmental efforts continue to focus attention on backlog reduction in monthly backlog reports from the bureaus/offices and quarterly EGOV scorecards, and to collaborate with bureaus/offices to find appropriate remedial actions. In 2007, DOI modified its electronic FOIA tracking system to enable bureaus/offices to readily produce real-time "snapshots" of their backlogs, allowing the FOIA Officers to monitor and manage their backlogs more efficiently. The DOI FOIA policy staff has encouraged bureaus/offices to make more information available online in an effort to reduce the need for the public to make FOIA requests.

Some bureaus still experience a high turnover in FOIA personnel and a lack of adequate, experienced staff to process requests, particularly in the field. This scenario may be explained in part by the fact that FOIA processing remains a collateral duty in most bureaus/offices (e.g., many FOIA Officers also serve as Public Affairs Officers, Privacy Officers and/or Records Officers), and FOIA request processing can be overtaken by other urgent priorities that compete for the attention of the same staff. Further, Privacy and Records requirements, like FOIA, are also expanding. From FY 2007 to FY 2009, DOI faced an overall 17 percent decrease in the number of personnel assigned to FOIA.

At the same time, the number of requests received increased by six percent. These factors, and the fact that many requests DOI receives are complex in nature, point to the need for more resources for these bureaus/offices. This would allow these bureaus/offices to address and eliminate gaps in knowledge and expertise caused by the high turnover in personnel, and to reduce their FOIA backlogs. However, resources are determined on a bureau-by-bureau basis and while the Chief FOIA Officer can recommend the addition of resources or a change in how resources are being allocated, it is the prerogative of each bureau/office to decide whether or not to adopt such recommendations.

3. **Describe the steps DOI is taking to improve timeliness in responding to requests and to administrative appeals.**

Based on the review of backlog reports, appeals, litigation and other issues that arise, the DOI FOIA policy staff provides recommendations and/or offers guidance to bureaus regarding remedial/corrective actions they can take to improve timeliness and streamline the overall FOIA process.

Additionally, FY 2009 was an unusual year in that three of the Bureau FOIA Officers retired or moved to other positions, which significantly impacted their FOIA Programs.

See also the answer provided in Section (V)(2) above and the attached reports prepared by the bureaus/offices and the Appeals Office.