THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3375

Subject: Improving the Department of the Interior's Ethics Programs through Consolidation

Sec. 1 **Purpose**. The purposes of this Order are to a) realign the reporting structure for ethics personnel in the Department of the Interior (DOI or Department) into the Departmental Ethics Office (DEO) and b) clarify roles and responsibilities with regard to the ethics program for DOI employees, program managers, and ethics officials. Consolidation will ensure the Designated Agency Ethics Official (DAEO) has overall responsibility for the Department's ethics program, including the ethics activities of the Bureaus/Offices, providing accountability and consistency across all components of the Department.

Sec. 2 **Authority**. This Order is issued under the authority of the Ethics in Government Act, 5 U.S.C. § 101, *et seq.*, and its implementing regulations at 5 C.F.R. Part 2638 (Agency Ethics Program Responsibilities), 5 C.F.R. Part 3501, 43 C.F.R. Part 20, Subparts A & B (Ethics Official and Ethics program responsibilities for DOI), and section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 3 **Definitions.** The following definitions apply to this Order:

a) Ethics Counselor. As provided in 5 C.F.R. § 3501.101, the Ethics Counselor is Director of each Bureau/Office.

b) Deputy Ethics Counselor (DEC). The DEC is the qualified employee designated by the DAEO to perform delegated ethics responsibilities for the Bureau/Office.

Sec. 4 **Background.** Ethics regulations at 5 C.F.R. § 2638.107 require the heads of agencies to establish and maintain an effective agency ethics program and foster an ethical culture in their agencies. A key component of this is the requirement in 5 C.F.R. § 2638.104 that agency heads appoint a DAEO who has "primary responsibility for directing the daily activities of the agency's ethics program and coordinating with the Office of Government Ethics (OGE)."

Under the Department's current structure as reflected in Secretary's Order 3288, however, the DECs report to the heads of their respective Bureaus/Offices, rather than to the DAEO, in the day-to-day implementation of the Department's ethics program. This structure is not only inconsistent with the ethics regulations, but also has contributed to a number of ethical lapses by employees which has harmed the Department's important mission. The need to improve the Department's ethics program is reflected not only in Office of Inspector General (OIG) investigation reports, but also in the audits and investigations conducted by outside entities, including OGE and the Government Accountability Office.

This Order realigns the reporting structure for ethics personnel and consolidates funding for the ethics program. Specifically, such realignment and consolidation will a) increase consistency in the standards and quality of ethics advice and counseling, financial disclosure reviews, identification of conflicts of interest, and training and education provided to all DOI employees; b) reduce unnecessary structural barriers, which will result in enhanced accountability and increased compliance with ethics statutes and regulations;
c) develop governmental ethics expertise among ethics personnel; and d) enhance the independence of ethics officials and the ethics program.

Sec. 5 **Realignment and Consolidation of DOI's Ethics Program.**

a) Organizational Changes.

1) No later than December 31, 2019, all full-time employees, other than those assigned to OIG and the National Indian Gaming Commission (NIGC), who are, as of the date of this Order, assigned to support Bureau/Office ethics programs, including DECs, Associate Ethics Counselors, Assistant Ethics Counselors, Financial Disclosure Specialists, Ethics Specialists, Ethics Assistants, or any other positions in which the provision of ethics-related services is a primary component of the employee's work duties, will be reassigned to the DEO within the Office of the Solicitor (SOL). Ethics employees of the OIG and the NIGC are excluded.

2) The DEO shall remain within SOL's Immediate Office, and the DAEO shall continue to report directly to the Solicitor, with ready access to the Secretary.

3) DECs will directly report to a DEO manager supervised by the DAEO, who has overall responsibility over the Department's ethics program.

4) The DEO, with its consolidated staff, will be funded through Reimbursable Service Agreements (RSAs) between the Bureaus/Offices and SOL.

b) Consolidation Responsibilities.

1) The Solicitor will oversee consolidation of the ethics programs into SOL and reassignment of all Bureau/Office ethics personnel.

2) Assistant Secretaries within their respective program areas will be responsible for effecting the transfer of personnel, funds, and property to implement the provisions of this Order.

3) The Chief Information Officer (CIO) will support the DEO's technology needs related to consolidation, including transitioning all ethics employee records to the DEO and ensuring requisite information technology access for reassigned ethics personnel, no later than December 31, 2019.

4) All Bureau/Office Directors, excluding the heads of OIG and the NIGC will:

i) Ensure human resource support to complete personnel actions for reassignments and transition of any open hiring actions to DEO by December 31, 2019.

ii) Ensure Associate CIO support for ethics personnel impacted by the consolidation to promote a seamless transition by December 31, 2019.

iii) Provide adequate financial support through RSAs to cover salaries, benefits, awards, indirect costs (including IT costs for the transition), travel, training, and other related expenses of ethics personnel.

5) The Director, DEO/DAEO will:

i) In consultation with the SOL Division of General Law and OGE, revise DOI ethics regulations to ensure conformance with this Order and otherwise, as appropriate.

ii) Assume control of hiring additional ethics staff and managing existing ethics staff for the DOI ethics program.

iii) Consult with Bureau/Office Directors regarding the development of RSAs to support the ethics program needs of the Department.

Sec. 6 **Officials' Responsibilities for the Ethics Program.**

a) Solicitor. The Solicitor will support resource and administrative needs of the DEO, including additional hiring initiatives as needed.

b) Assistant Secretaries. Assistant Secretaries will:

1) Provide oversight and management to ensure that their respective Bureau/Office Directors fully comply with this Order.

2) Consult with Bureau/Office Directors to provide input into the ethics program services provided by the DEO and recommend additional enhancements as necessary.

c) Inspector General. In addition to the responsibilities outlined in section 6(e) of this Order for Bureau/Office Directors, the Inspector General will:

1) Consult with the DAEO regarding whether an OIG ethics official has the required skills and expertise to be designated as an ethics official, to the extent it is not inconsistent with section 6(e)(1)(A) of the Inspector General Act.

2) Provide the respective OIG ethics official(s) with adequate support staff, as well as financial and technical resources to implement an ethics program fully compliant with 5 C.F.R. Part 2638, including the responsibilities vested in Inspectors General in 5 C.F.R. § 2638.106 and consistent with Department-wide ethics policies and program directions of the DAEO.

d) Chair, NIGC. In addition to the responsibilities outlined in section 6(e) of this Order for Bureau/Office Directors, the Chair of the NIGC will:

1) Designate ethics officials and other employees necessary to carry out the responsibilities of the ethics program, including a DEC, in consultation with the DAEO.

2) Provide the respective NIGC ethics official(s) with adequate support staff, as well as financial and technical resources, to implement an ethics program fully compliant with 5 C.F.R. Part 2638 and consistent with Department-wide ethics policies and program directions of the DAEO.

3) Consult with the DAEO with respect to any personnel actions affecting ethics officials, including, but not limited to, hiring, termination, performance management, and temporary or permanent reassignment.

e) Bureau/Office Directors (Ethics Counselors). Bureau/Office Directors are responsible for, and will exercise personal leadership in, ensuring an effective ethics program and fostering an ethical culture in Bureaus/Offices. As such, Bureau/Office Directors will:

1) Perform the responsibilities set forth for agency heads with respect to their Bureau/Office ethics program (5 C.F.R. Part 2638 and 43 C.F.R. Part 20), including:

i) Provide the DAEO with information, support, and cooperation necessary to accomplish the DAEO's responsibilities.

ii) Promptly notify the DAEO of the appointment, promotion, detail, and termination of all employees.

iii) When action is warranted, enforce Government ethics laws and regulations through appropriate referrals to the Inspector General or the Department of Justice, through investigations, and through disciplinary or corrective action.

iv) Require that violations of Government ethics laws and regulations or interference with the functioning of the agency ethics program, be appropriately considered in evaluating the performance of members of the Senior Executive Service, Senior Level personnel, and Scientific and Professional personnel.

2) Assist the DAEO and DEO with disseminating procedures and guidelines to adequately and systematically inform employees of the content, meaning, and importance of ethical conduct and other conduct regulation.

2) Assist the DAEO and DEO with disseminating procedures and guidelines to adequately and systematically inform employees of the content, meaning, and importance of ethical conduct and other conduct regulation.

3) Support DEO management to ensure that all Bureau/Office employees have access to ethics resources, guidelines, training, and appropriately trained ethics officials.

4) Require supervisors and managers to work with the DEO and their assigned ethics counselors to adopt practices and procedures to ensure that appropriate controls are in place, including recusals, to avoid conflicts of interest.

5) Support DEO management in their efforts to collect and review financial disclosures from Bureau/Office employees.

6) Support the DEO in implementing procedures to solicit employee concerns and other appropriate feedback on personal or programmatic ethics matters.

7) Cooperate fully with all audit, documentation, and reporting requests from the DAEO or DEO and work with the assigned DEC to provide a calendar-year annual assessment of the ethics program to the DAEO.

8) Provide input into DEC annual performance plans, progress reviews, and rating narratives.

9) In consultation with the appropriate Assistant Secretary, provide regular input into the ethics program services provided by the DEO and recommend additional modifications or enhancements as necessary.

f) Director, DEO/DAEO. The Director, DEO/DAEO will:

1) Perform the responsibilities set forth in 5 C.F.R. § 2638.104 in a consistent manner across the Department, including providing advice and counsel to Department employees, directing an effective ethics education and training program, and administering an effective financial disclosure program.

2) Carry out the Department's consolidated ethics program functions and management responsibilities.

3) Develop and oversee implementation of all ethics policies, procedures, and guidelines across the Department, including Department-wide policies, as well as Bureau/Office-specific ethics policies, if necessary.

4) Designate roles and responsibilities for employees in the DEO, including the DEC for each Bureau/Office and other ethics officials, consistent with 5 C.F.R. § 2638.104(e).

5) Regularly consult with Assistant Secretaries and Bureau/Office Directors regarding ethics program service needs, both at Bureau/Office headquarters and in the regions, to fully meet requirements.

6) Regularly advise the Secretary and Bureau/Office Directors regarding all aspects of DOI's ethics program and overall compliance with this Order.

g) Supervisors. Supervisors will:

1) Fulfill the requirements of 5 C.F.R. § 2638.103.

2) Serve as models of ethical behavior for subordinates.

3) Help to ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and Departmental supplemental ethics regulations.

4) Ensure that subordinates know how to contact ethics officials in the DEO and the OIG, as appropriate.

5) Work with the DEO to help resolve conflicts of interest and enforce Government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports.

6) Assist the DEO, when requested, to evaluate potential conflicts of interest.

7) Assist the DEO and human resource officials to identify positions subject to financial disclosure requirements and continually update these determinations, as appropriate.

h) DOI Employees. It is the responsibility of each employee to be familiar with, and to comply with, all Federal statutes, Executive Orders, and regulations that govern his or her conduct. As such, DOI employees will:

1) Comply with all applicable ethics laws, regulations, and guidelines, including the 14 general principles of ethical conduct contained in Executive Order No. 12674 (as amended), 5 C.F.R. Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch), 5 C.F.R. § 2638.102 (Government ethics responsibilities of employees), 5 C.F.R. § 2638.103 (Government ethics responsibilities of supervisors), 5 C.F.R. Part 3501 (Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior), and 43 C.F.R. Part 20 (Employee Responsibilities and Conduct for the Department of the Interior).

2) Maintain high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Government business and the continual trust and confidence of U.S. citizens in their Government.

3) Seek guidance from the DEO when any ethics questions arise.

4) Timely complete ethics training, if required.

5) Timely and completely file financial disclosure reports, if required.

6) Timely report both personal and programmatic ethics concerns to the employee's supervisor, the DEO, and, if appropriate, the OIG.

Sec. 7 **Implementation**. The Solicitor and the Assistant Secretary - Policy, Management and Budget are responsible for ensuring the realignment of the reporting structure for ethics personnel into the DEO. This responsibility may be delegated as appropriate.

Sec. 8 **Secretary's Order 3288**. This Order supersedes Secretary's Order 3288, Enhancing and Promoting an Ethical Culture within the Department of the Interior, dated August 31, 2009.

Sec. 9 **Expiration Date**. This Order is effective immediately. It will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, or revoked, whichever occurs first.

Secretary of the Interior

Date: AUG 14 2019