

United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

September 2, 2003

MEMORANDUM

To: All Assistant Secretaries, Solicitor, Bureau Heads, and Heads of Offices

From: Lynn Scarlett (Signed)
Assistant Secretary, Policy, Management, and Budget

David L. Bernhardt
Counselor to the Secretary and Director of Congressional and Legislative Affairs

Subject: Information Provided to Congress

This is to remind you there is longstanding guidance in the Departmental Manual, OMB Circular A-19, and OMB-Circular A-11 relating to appropriate review and clearance of written material provided to Congress on legislative or budget matters. While agencies seem aware of the need to clear testimony and formally proposed legislation through the Office of Congressional and Legislative Affairs (OCL) and the Office of Budget (POB), there appears to be some confusion with respect to written comments on legislation and drafting services requested by Committee staff; Members, or outside groups.

Overall

461 DM 1.1 The objectives of Part 461, Legislative Coordination, of the Departmental Manual are to effect the maximum interchange of information as well as expeditious and coordinated action on legislative matters, to insure that information and action on such matters conform to the official views of the Department, and to preclude misinterpretation or misunderstanding of these views. All officers and employees dealing in legislative matters are expected to contribute toward the attainment of these objectives.

Written Comments on Authorizing Legislation

All written material must be reviewed and coordinated through OCL, if it pertains to an authorizing matter, or through POB, if it pertains to an appropriations matter, before it is distributed to anyone outside of the Department. This includes “white papers” or any other material intended for a non-Departmental recipient.

- **461 DM 1.2** The OCL, acting through the Legislative Counsel, serves as a clearing house for all legislative matters other than appropriations bills.
- **461 2.3** Whenever it is necessary to prepare a statement of the Department’s views on legislation, the Legislative Counsel is responsible for its coordination and preparation.

- **OMB Circular A-19** Before an agency [in this case, agency means the Department] transmits any written views outside the Executive Branch, it shall submit them to OMB for coordination and clearance. Pursuant to the Departmental Manual, OCL submits all such material to OMB on behalf of all of the bureaus and offices within Interior.

Budget Communications

- **112 DM 2 POB** has primary staff responsibility for directing and coordinating the development, presentation, execution, and control of the Department's Budget. This includes formulation within the Department and the Office of Management and Budget and presentation to the Congress, press, interest groups, and the public, and budget execution and control. Among other things, POB is the liaison on all matters dealing with budget formulation and presentation with the Office of Management and Budget, the House and Senate Appropriations Committees, and other Federal agencies.

- **OMB Circular A-11** Policy consistency between the President's budget and the budget-related materials prepared for Congress and the media is essential. To ensure this consistency, the Department, acting through POB, is required to submit budget-related materials to OMB for clearance prior to transmittal to congressional committees, individual Members of Congress or their staff, or the media.

Drafting Services

- **461 DM 1.2** Any bureau or office receiving a request for information, drafting, or other assistance regarding the consideration or preparation of legislation, other than appropriations legislation, from sources outside of the Department will promptly notify the Legislative Counsel. The Legislative Counsel will work with the appropriate bureau or office to respond to the request and/or prepare draft legislation. After review by the Legislative Counsel, the draft bill will be forwarded to the requesting source by a letter generally explaining the bill and disclaiming any Departmental position. Informal copies of the draft bill and Congressional letter will be forwarded to OMB.

- **OMB Circular A-19** Agencies [in this case, agency means the Department] need not submit for clearance bills they prepare as a drafting service, provided that they state in their transmittal letters that the drafting service does not constitute a commitment with respect to the position of the Administration or agency. Agencies shall advise OMB of these drafting service requests while the requests are being complied with, and supply a copy of the request, if in writing. A copy of each such draft bill and the accompanying letter should be furnished to OMB at the time of transmittal, together with an explanatory statement of what the bill would accomplish if that is not contained in the transmittal letter.

The Office of the Inspector General recently completed an investigation concerning a legislative matter, and the Department's actions in regard to that matter. The investigation report discusses the fact that the bureau in question prepared a "white paper" that expressed views on the legislation for use by Members of Congress and their staff. In addition, the report states an Interior office provided draft legislation with regard to this matter. None of this written communication was reviewed and approved in the appropriate manner.

Please remind your employees of the information cited above. We need all of you to ensure compliance with these requirements.