

U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

April 19, 2018

The Honorable Mary L. Kendall
Deputy Inspector General
U.S. Department of the Interior
Office of Inspector General
1849 C Street NW – Mail Stop 4428
Washington, D.C. 20240

Dear Ms. Kendall:

The Department of the Interior (DOI) recently released documents pursuant to a Freedom of Information Act request (FOIA) that demonstrate that Secretary Ryan Zinke uses at least one personal email account in connection with his official duties. The use of personal email for official business increases the risk that records will be lost or subject to unauthorized access. We write to request an investigation into whether Secretary Zinke's use of a private email address to conduct official business complies with federal law, including the Federal Records Act (FRA), National Archives (NARA) regulations, and internal DOI policies.

Federal law has long required the preservation of federal records regardless of the physical form or medium involved.¹ The Federal Records Act explicitly encompasses email communications.² NARA requires agencies to have policies to capture email records in recordkeeping systems.³ According to NARA records, DOI's Office of the Secretary has adopted the Capstone General Records Schedule 6.1, under which all of Secretary Zinke's emails are considered permanent records.⁴ Under the Presidential and Federal Records Act of 2014, agency officials who conduct agency business on non-government email accounts are required to capture those messages in official record-keeping systems either by copying their official account or by forwarding copies of the messages to their official email accounts within 20 days.⁵

These requirements ensure that the public has access to a complete historical record. They protect against the use of private email to hide official business from public scrutiny. They ensure that records are available through FOIA, to Congress, and to investigators. Federal records belong to the public and the law provides for penalties against individuals who unlawfully remove or destroy them.⁶

¹ H.R. 2943, Records Disposal Act of 1943, 57 Stat. 380 (1943); 36 C.F.R. § 1222.12(b)(3) (1990).

² Presidential & Federal Records Act Amendments of 2014, Pub. L. No: 113-187 (Nov. 26, 2014) (amending 44 U.S.C. § 3301(a)); 36 C.F.R. § 1222.34(e) (1995).

³ 36 C.F.R. § 1222.24 (2009).

⁴ <https://www.archives.gov/files/records-mgmt/grs/grs06-1.pdf> (GRS 6.1); <https://www.archives.gov/files/records-mgmt/email-management/agency-email-dispo.csv> (Agency email management report).

⁵ 44 U.S.C. § 2911.

⁶ 44 U.S.C. § 3105.

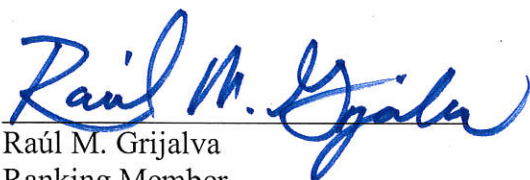
Copies of emails that were released pursuant to FOIA requests show many instances in which Secretary Zinke sent and received emails containing official business using his personal email account, and in which his official email account was not copied.^{7,8,9,10,11,12} The information in the FOIA emails is insufficient to confirm that he did not enter his official email address in the “bcc” line of these emails, and whether he later forwarded the emails to his official account within the legally required 20 days. An investigation is therefore necessary to determine whether preservation and transparency laws are being followed and the risk of unauthorized access to sensitive information is being minimized.

In response to a bipartisan request, on October 27, 2017, the Department sent a letter to Oversight Committee Chairman Trey Gowdy and Ranking Member Elijah Cummings that said “the Department does not sanction the use of email accounts not issued by the Department to conduct official Departmental business.”¹³ In its response, the Department revealed that Secretary Zinke was assigned multiple official email accounts.

The group of emails in these FOIA releases provides a limited view of Secretary Zinke’s use of personal email. The documents only provide insight into the narrow range of documents that were specifically requested in the applicable FOIA request letters. An investigation that would clarify whether the potential transgressions violate the law would also be able to determine whether they are isolated incidents. We request that you obtain copies of all email records sent by Secretary Zinke from any nongovernment accounts to determine whether he complied with the Federal Records Act and to determine the substance of the records that did not comply with the law. We also request that you investigate whether Secretary Zinke’s use of alias email addresses impacted the Department’s responses to FOIA requests, Congressional requests, or other investigations.

Thank you for your consideration of this request. We look forward to your response.

Sincerely,



Raúl M. Grijalva
Ranking Member
House Committee on
Natural Resources



Elijah E. Cummings
Ranking Member
House Committee on Oversight
and Government Reform

⁷ <https://www.doi.gov/sites/doi.gov/files/uploads/17-00413cc.pdf>

⁸ <https://www.doi.gov/sites/doi.gov/files/uploads/17-00413ca.pdf>

⁹ <https://www.doi.gov/sites/doi.gov/files/uploads/17-00413cd.pdf>

¹⁰ <https://www.doi.gov/sites/doi.gov/files/uploads/17-00707ce.pdf>

¹¹ <https://www.doi.gov/sites/doi.gov/files/uploads/17-00707cd.pdf>

¹² <https://www.doi.gov/sites/doi.gov/files/uploads/17-00413cb.pdf>

¹³ Letter from Sylvia Burns, Chief Information Officer, Department of the Interior, to Chairman Trey Gowdy, Committee on Oversight and Government Reform (Oct. 27, 2017).