

# U.S. Sen. Johnson: Biden's executive action runs counter to the principles of an open, transparent government and the rule of law

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**WASHINGTON** – On Tuesday, U.S. Sen. Ron Johnson (R-Wis.) led 20 of his Senate Republican colleagues in calling on President Biden to reverse his [executive order](#) that revoked federal agencies requirement to post guidance documents in a searchable database. The executive order was modeled after bipartisan legislation, the [Guidance Out of Darkness Act \(GOOD Act\)](#) that was approved by voice vote by the Senate Committee on Homeland Security and Governmental Affairs each of the last two sessions of Congress.

In the letter the senators wrote, “Since February, a number of federal agencies have taken steps to eliminate public access to guidance documents in order to comply with your directive. We believe these actions run counter to the principles of an open, transparent government and the rule of law.”

“In the past, efforts to promote a more open and transparent government have been bipartisan, and we see no reason why they should not be today,” **continued the senators.** “Again, we respectfully urge you to reconsider your revocation of the Public Access to Guidance EO, Executive Order 13891, or support our efforts to pass S. 628, the Guidance Out Of Darkness (GOOD) Act this Congress.”

Joining Johnson was Senators James Lankford (R-Okla.), Rob Portman (R-Ohio), Richard Burr (R-N.C.), Joni Ernst (R-Iowa), John Cornyn (R-Texas), Thom Tillis (R-

N.C.), Kevin Cramer (R-N.D.), Ted Cruz (R-Texas), Marsha Blackburn (R-Tenn.), John Barrasso (R-Wyo.), Pat Toomey (R-Pa.), Bill Hagerty (R-Tenn.), Mike Lee (R-Utah), Cynthia Lummis (R-Wyo.), Mitt Romney (R-Utah), Mike Braun (R-Ind.), Roger Marshall (R-Kan.), Deb Fischer (R-Neb.), Rand Paul (R-Ky.), and Lindsey Graham (R-S.C.)

The senators' [letter](#) from February 8, stated, "Executive Order 13891 was modeled on bipartisan legislation, the Guidance Out Of Darkness Act, or the GOOD Act. The GOOD Act was approved by voice vote by the Senate Committee on Homeland Security and Governmental Affairs each of the last two Congresses. **In fact, Vice President Kamala Harris, who then served as a member of the Committee, voted for the legislation.** The House of Representatives also passed the companion bill by voice vote in 2018. **The revocation of an executive order with such widespread and long-standing bipartisan support—including the support of Vice President Harris—seems inconsistent with your stated desire for compromise and to "reach across the aisle, and work together."**

The full text of the letter is below.

May 18, 2021

President Joseph R. Biden

The White House

1600 Pennsylvania Avenue, NW

Washington, D.C. 20500

Dear Mr. President:

On February 8, 2021, 21 Senators expressed concern regarding your decision to

revoke Executive Order 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents (hereinafter, Public Access to Guidance EO).<sup>1</sup> The Public Access to Guidance EO implemented a bipartisan, common sense transparency measure requiring agencies to create a “single, searchable, indexed database” of all guidance documents on the agency website.<sup>2</sup> The letter stressed disappointment over your characterization of that EO as one of the “harmful policies and directives that threaten to frustrate the Federal Government’s ability to confront [the coronavirus disease 2019 (COVID-19) pandemic, economic recovery, racial justice, and climate change],” and your statement that its revocation was necessary to provide Federal agencies the “flexibility to use robust regulatory action to address national priorities.”<sup>3</sup>

Since February, a number of federal agencies have taken steps to eliminate public access to guidance documents in order to comply with your directive.<sup>4</sup> We believe these actions run counter to the principles of an open, transparent government and the rule of law. For example, an April 15, 2021 final rule by the Department of the Interior (DOI) eliminated public access to government documents.<sup>5</sup> In doing so, the DOI final rule mischaracterized and inappropriately relied upon the Public Access to Guidance EO to justify its actions.<sup>6</sup>

The rule stated that DOI’s implementation of the Public Access to Guidance EO “deprives the Department and subordinate Bureaus and Offices of the necessary flexibility in determining when and how best to issue public guidance based on particular facts and circumstances.”<sup>7</sup> The rule also stated this transparency measure “unduly restricts the Department’s ability to provide timely guidance on which the public can confidently rely.”<sup>8</sup> Your administration provided no context to explain how a website providing public access to government documents could be harmful. The website also serves the dual purpose of providing stakeholders with easier access to guidance that better enables them to fulfill their regulatory obligations. Additionally, it remains unclear how the public can benefit from “timely guidance” if the public is n’t aware of the guidance.

Unfortunately, at least ten Federal agencies have now deleted the websites for the public to access to agency guidance documents.<sup>9</sup> These actions are highly concerning. In the

past, efforts to promote a more open and transparent government have been bipartisan, and we see no reason why they should not be today. Again, we respectfully urge you to reconsider your revocation of the Public Access to Guidance EO, Executive Order 13891, or support our efforts to pass S. 628, the Guidance Out Of Darkness (GOOD) Act this Congress.

Respectfully,

See coverage of the senators' letter below:

**FOX NEWS: [Senate Republicans call for Biden to restore Trump-era government transparency order](#)**

Sen. Ron Johnson and 20 Republican senators on Tuesday urged President Biden restore a Trump-era executive order modeled after bipartisan legislation requiring federal agencies to post guidance documents in a searchable database, warning that since the measure was revoked, a number of federal agencies have taken “highly concerning” steps to “eliminate public access.” “The Public Access to Guidance EO implemented bipartisan, common sense transparency measures requiring agencies to create a ‘single, searchable, indexed database’ of all guidance documents on the agency website,” Johnson, R-Wis., and his GOP colleagues wrote.

The executive order was fashioned in the Trump administration after bipartisan legislation, the Guidance Out of Darkness Act, also known as the GOOD Act, which was approved by voice vote by the Senate Committee on Homeland Security and Governmental Affairs during the last two sessions of Congress.