



**Billing Code 4710-08**

**DEPARTMENT OF STATE**

**[Delegation of Authority No. 479]**

**Delegation of the Authority to Invoke the Deliberative-Process Privilege**

***Authority***

By virtue of the authority vested in the Secretary of State, including section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and to the extent authorized by law, I hereby delegate the authority to assert the deliberative-process privilege in judicial and administrative proceedings.

***Delegation***

This authority is delegated to the Assistant Secretaries of State and their equivalents. For purposes of this delegation, equivalents include but are not limited to Ambassadors-at-Large, Special Envoys, and the Legal Adviser.

The authority delegated herein may be re-delegated to Deputy Assistant Secretaries of State and their equivalents.

***Guidelines***

The deliberative-process privilege may be invoked only with respect to internal or inter-agency records, information, and communications that are pre-decisional and deliberative. Records, information, and communications are pre-decisional if they were created or shared prior to the adoption of the policy being discussed, regardless of whether the policy was ever implemented. Records, information, and communications are deliberative if their release would expose opinions, assessments, advice, or

recommendations offered in the course of agency decision-making, or the internal process of agency decision-making.

The deliberative-process privilege may be invoked only if disclosure of the records, information, or communications at issue would harm or inhibit Department deliberations or decision-making or would otherwise harm legitimate Department interests. The privilege may not be asserted for the purpose of avoiding embarrassment. The privilege may be asserted only in coordination with the Office of the Legal Adviser.

The individual invoking the privilege must personally review the records, information, or communications at issue, and must have intimate familiarity with the underlying subject matter. The individual invoking the privilege may consult with other individuals or offices, as appropriate, to obtain the required familiarity and make the required determinations.

### ***Exclusions***

The authority to invoke other discovery privileges, such as the state-secrets privilege, is not delegated herein.

### ***Implementation***

The Secretary, Deputy Secretary, and Under Secretaries may exercise the authority delegated herein. This delegation does not repeal or affect any delegation of authority currently in effect.

This delegation does not rescind or disapprove of any of the Department's prior invocations of the deliberative-process privilege.

This delegation of authority shall be published in the *Federal Register*.

Dated: December 17, 2019.

**Michael R. Pompeo,**

*Secretary of State,*

*U.S. Department of State.*

[FR Doc. 2019-28386 Filed: 1/2/2020 8:45 am; Publication Date: 1/3/2020]