INFORMATION SECURITY OVERSIGHT OFFICE

NATIONAL ARCHIVES and RECORDS ADMINISTRATION

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INFORMATION SECURITY
OVERSIGHT OFFICE

March 17, 2016

Memorandum for: Selected Senior Agency Officials Designated Under Section 5.4(d) of Executive Order 13526, "Classified National Security Information"

From: William A. Cira, Acting Director

Subject: FY 2017 Fundamental Classification Guidance Review

Notice

This memorandum gives guidance concerning the FY 2017 Fundamental Classification Guidance Review (FCGR) required by Executive Order 13526, "Classified National Security Information," (the Order). Your agency must perform the FCGR and submit the results of the completed review to the Information Security Oversight Office (ISOO) by 30 June 2017. Please provide this office the name and contact information of your point of contact (POC) for this review by 30 April 2016. ISOO will provide additional guidance to your POC as the review develops.

The goal of the FCGR is to ensure agency classification guidance authorizes classification only in those specific instances necessary to protect national security. A reasonable outcome of the review overall, though not necessarily in the case of each program or guide, is to expect a reduction in classification activity across government.

ISOO will provide guidance on completing the FCGR to Senior Agency Officials (SAOs) throughout the coming year. Agencies will provide a status update to ISOO on their progress on the FCGR in October 2016 and again in February 2017.

I appreciate your cooperation and your personal commitment to this initiative, which furthers the President's goals for greater openness while protecting legitimate national security interests. Please contact Peggy Ushman, Senior Program Analyst, at 202-357-6866 or peggy.ushman@nara.gov, if you have any questions about the FCGR.

About the FCGR

The objective of the FCGR is to ensure classification guidance is up-to-date and reflects current circumstances. The FCGR aims to ensure current guidance in use at agencies keeps classification to the minimum necessary and supports the declassification of information that no longer requires protection.

<u>Authority</u>

Section 1.9 of Executive Order 13526, "Classified National Security Information," (the Order) and 32 CFR 2001.16 require agencies with original classification authority to complete a "comprehensive review of their classification guidance, particularly classification guides."

<u>Reporting Requirements and Deadlines</u>

Under the Order, agency heads with original classification authority must provide a final report summarizing the results of their review to ISOO. Agencies must also release an unclassified version of this report to the public, except when the existence of a guide or program is itself classified.

Agencies must complete the next FCGR by June 30, 2017. Agencies must provide ISOO with a status update on their FCGR progress in October 2016 and again in February 2017. The final report must include the following information:

- A description of the review process employed by the agency, to include the use of experts and other internal and external consults to ensure a broad range of perspectives;

- The number of classification guides reviewed;

- The number of classification guides cancelled;

- The number of classification guides consolidated;

- The number of modifications made to classification duration, if any; and

- The number of declassification exemptions removed, if any.

ISOO will provide online access to the unclassified reports for public consumption.

<u>Participation</u>

The agency head or SAO must direct the FCGR. It is not sufficient to have a review conducted only by the pertinent original classification authority. The appropriate agency subject matter experts must participate to obtain the broadest possible range of perspectives. To the extent practicable, external subject matter experts and external users of the reviewing agency's classification guidance and decisions should also contribute to the review.

In directing the review, the agency head or SAO must balance the contributions of subject matter experts with sufficient expertise in narrow specializations with the participation of managers and planners who have broader organizational vision and relationships.

Ideally, agencies will create working groups led by subject matter experts that will evaluate specific topics or subject areas. Working groups will include classification and declassification experts, as well as users of the guides. Working groups must have sufficient authority to obtain the information they require and formality to enforce deadlines and compliance, while having enough flexibility to adapt to the unforeseeable outcomes of research and discussion.

Agency heads or SAOs will charge external reviewers with challenging assumptions and testing the status quo, so that classification authorities can be certain any guidance that remains has validity for agency operations going forward.

<u>Scope and Best Practices</u>

The scope of this review needs to be systematic, comprehensive and conducted with thoughtful scrutiny involving detailed data analysis. In accordance with 32 CFR 2001.16(b), at a minimum reviews must:

- Determine if the guidance conforms to current operational and technical circumstances;

- Determine if the guidance meets the standards for classification under section 1.4 of the Order and an assessment of likely damage under section 1.2 of the Order;

- Determine if the dissemination and availability of the guidance is appropriate, timely, and effective; and

- Examine recent classification decisions, focusing on ensuring classification decisions reflect the intent of the guidance as to what is classified, the appropriate level, the duration and associated markings.

Additional best practices to consider for the review are to:

- Consider whether information must retain its current level of classification or if it should be downgraded or declassified;

- Consider whether the duration of classification is appropriate and, for information currently exempted from automatic declassification, whether the exemption should still apply;

- Determine *with specificity* what no longer requires protection (An example would be a specific part of a weapon system versus the weapon system as a whole. The user of the guide must be able to identify the specific element of information that does or does not require protection.);

- Reflect past declassification decisions (under automatic declassification, as well those in response to Freedom of Information Act and Mandatory Declassification Review requests) in updated classification/declassification guidance;

- Cross-reference information with other guides, both within and outside your agency (Agencies should make every effort to determine if multiple guides contain the same classified information. In these instances, instructions should be the same, or should highlight any differences, making distinctions in guidance readily known and apparent. Additionally, the guides should cite the cross-referenced guides.); and

- Incorporate recent original classification decisions in appropriate security classification guides.

Please remember that one of the most important aspects of the review is an examination of recent classification decisions to ensure they reflect the *intent* of the guidance as to what is classified, the appropriate level, the duration, and associated markings.

FY 2012 FCGR

Agencies completed the inaugural FCGR in FY 2012. Noteworthy achievements from the FY 2012 FCGR included:

- The completed review of more than 2,500 National Security Information topics from agency classification guides. The review reduced the topics of information requiring exemptions from automatic declassification. It reduced occurrences of redundancies in guides by correctly identifying only 20% of the NSI topics as unique topics.

- The formation of an Integrated Process Team that developed an integrated agency classification guide with a standard set of classification requirements and individual annexes of classification tables. Classification specialists submitted suggestions for change, reviewed issues and areas where uniformity needed to be achieved and provided reviews and comments during coordination of the final product.

- The participation of engineers, scientists, subject matter experts, security professionals and senior management officials on agency working groups.