

Department of State

§ 9.15

§ 9.13 Transferred material.

(a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of the Order.

(b) In the case of classified information that is not officially transferred as described in section 3.2(a) of the Order, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purpose of the Order. Such information may be declassified or downgraded by the agency in possession after consultation with any other agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with the Order, the Directive, and agency guidelines.

§ 9.14 Declassification and downgrading.

(a) *General.* Information should be declassified or downgraded as soon as national security considerations permit. Information will be protected in accordance with the provisions of the Order for as long as it meets the classification requirements prescribed by these regulations. Agencies shall coordinate their review of classified information with other agencies or foreign governments that have a direct interest in the subject matter.

(b) *Authority to declassify or downgrade.* Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the agency head or the senior agency official designated pursuant to section 5.3(a)(1) of the Order. In addition, if the Director of ISOO determines that information is classified in violation of the Order, the Director may require the agency which classi-

fied the information to declassify it. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified until a decision has been made on the appeal.

(c) The agency shall maintain a current, unclassified, listing of officials delegated declassification and downgrading authority.

§ 9.15 Systematic review for declassification guidelines.

(a) The agency may schedule classified records of permanent historical or other value for bulk review for declassification and may either perform such review itself, or may refer the records, together with guidelines for declassification, to the Archivist of the United States for review.

(b) For records of the Department of State, a sampling of classified records of permanent value for a given period will be selected by the Office of the Historian (PA/HO), and reviewed by the Systematic Review Office of the Classification/Declassification Center. The Systematic Review Office will prepare guidelines, which will be transmitted by the Secretary of State to the Archivist of the United States, not later than February 1, 1983, for use in reviewing the remainder of the permanently valuable classified records of the given period when these records are accessioned to the National Archives.

(c) AID will prepare guidelines, and transmit them to the Archivist of the United States not later than February 1, 1983, for use in reviewing permanently valuable classified records that have been accessioned to the National Archives. The Records Management Branch, Communications and Records Management Division, (M/SER/MO), is designated as the office responsible for systematic review matters within the agency. The Branch Staff will provide assistance to the Archivist in the systematic review process.

(d) For information concerning records of ICA, contact the agency's Declassification Officer, Office of Administration.

(e) The agency guidelines will identify categories of information which cannot be automatically declassified but must be reviewed item-by-item to

determine if there is a need for continued protection.

(f) These guidelines may be authorized by the agency head for use by other agencies, in addition to the National Archives, having custody of the originating agency's classified information of the period covered.

(g) These guidelines shall be reviewed and updated every five years, unless earlier review is requested by the Archivist.

(h) For foreign government information, the agency will prepare by February 1, 1983, specific guidelines for systematic review of foreign government information in records accessioned to the National Archives, and will revise such guidelines every five years or earlier as requested by the Archivist.

(i) *Special procedures.* The agency shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities) sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§9.16 Mandatory review.

Each agency shall review for declassification any classified information requested, under the Mandatory Review provisions of the Order except as noted in paragraph (d) of this section, provided that: The requester is a U.S. citizen, resident alien, Federal agency, or state or local government; the request describes the information with sufficient specificity to enable the agency to locate the records containing the information with a reasonable amount of effort; and the agency receiving the request is the agency that originated the information. When an agency receives a request for information in its custody which was originated by another agency, it shall refer the information and request to the originating agency for its review and direct response to the requester.

(a) *Foreign government information.* Except as provided in this paragraph, agencies shall process mandatory review requests for classified records containing foreign government information in accordance with §2001.32(a)

of the ISOO Directive. The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If the agency receiving the request is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

(b) Information requested shall be declassified if it no longer requires protection under the provisions of the Order. It will then be released to the requester unless withholding is otherwise authorized under applicable law, such as the Freedom of Information or Privacy Act. If the information requested cannot be declassified in its entirety, the agency will make reasonable efforts to release those declassified portions that constitute a coherent segment. Upon the denial of an initial request, the agency shall also notify the requester of the right of administrative appeal, which must be filed within 60 days of receipt of the denial, and shall enclose a copy of the agency's regulations governing the appeal process.

(c) Initial requests may be addressed to:

(1) Department of State: The Information and Privacy Coordinator, Room 1239, Bureau of Administration, Department of State, Washington, DC 20520, with the envelope clearly marked MANDATORY REVIEW REQUEST;

(2) AID: Director, Office of Public Affairs for AID; Room 4899, 2201 C Street, NW., Washington, DC 20523; or

(3) USIA: Freedom of Information and Privacy Act Coordinator, Office of Administration, 1776 Pennsylvania Avenue, NW., Washington, DC 20547.

(d) In responding to mandatory review requests, agencies shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the case. Agencies shall make a final determination in one year from the date of receipt, except in unusual circumstances.