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**United States Department of State  
and the Broadcasting Board of Governors**

*Inspector General*

OCT 31 2013

Re: OIG FOIA Case No. 14-00003

This is in response to your Freedom of Information Act (FOIA), 5 U.S.C. § 552, request dated October 8, 2013, to the U.S. Department of State's Office of Inspector General (OIG). You requested "a copy of the State Department Inspector General report (due September 30, 2013) on reducing over-classification required in Section 6 of the Reducing Over--Classification Act (H.R. 553)."

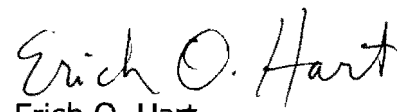
Enclosed is the requested report. The report titled: Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information, is being released to you in part, redacted under FOIA exemptions (b)(2) and (b)(6). We have enclosed a separate sheet explaining the exemptions. The report is available online and can be found at <http://oig.state.gov/documents/organization/210775.pdf>.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal this decision within 60 days to the Chairman of the Appeals Panel of the U.S. Department of State as explained in the enclosed. Appeals should be addressed to: Chairman, Appeals Review Panel, Attention: Appeals Officer,

A/ISS/IPS/PP/LC, Room 8100, State Annex 2 (SA-2), U.S. Department of State,  
Washington, D.C. 20522-8100.

Sincerely,

A handwritten signature in black ink that reads "Erich O. Hart". The signature is written in a cursive style with a large, stylized "H" and a clear "O".

Erich O. Hart  
General Counsel

Enclosures: As stated



UNITED STATES DEPARTMENT OF STATE  
AND THE BROADCASTING BOARD OF GOVERNORS  
*OFFICE OF INSPECTOR GENERAL*

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AUD-SI-13-22

Office of Audits

March 2013

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**Evaluation of Department of State  
Implementation of Executive Order 13526,  
Classified National Security Information**

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United States Department of State  
and the Broadcasting Board of Governors  
*Office of Inspector General*

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. Geisel", with a large, stylized flourish at the end.

Harold W. Geisel  
Deputy Inspector General

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**Acronyms**

A/GIS/IPS	Bureau of Administration, Global Information Services, Office of Information Programs and Services
DS	Bureau of Diplomatic Security
DSCG	Department of State Classification Guide
FAH	<i>Foreign Affairs Handbook</i>
FAM	<i>Foreign Affairs Manual</i>
FSI	Foreign Service Institute
INR	Bureau of Intelligence and Research
ISOO	National Archives and Records Administration, Information Security Oversight Office
OIG	Office of Inspector General
SAS	State Archive System
SF	Standard Form
SMART-C	Classified State Messaging Archive and Retrieval Toolset

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## **Executive Summary**

Executive Order 13526, “Classified National Security Information,” was signed by President Barack Obama on December 29, 2009, and became effective June 27, 2010. The Executive order prescribes a uniform system for classifying, safeguarding, and declassifying national security information and embodies the President’s mandate to control the amount and duration of classification and to share classified information more freely within the executive branch and with State, local, tribal, and private sector partners. This Executive order applies to all Federal agencies that originate or handle classified information.

The Office of Inspector General (OIG), Office of Audits, conducted this evaluation to fulfill requirements in the Reducing Over-Classification Act,<sup>1</sup> enacted October 7, 2010, which called for Inspectors General (a) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component and (b) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency, or component.

OIG found that the Department of State (Department) had generally adopted the classification policies, procedures, rules, and regulations prescribed by Executive Order 13526. However, the Bureau of Administration, Global Information Services, Office of Information Programs and Services (A/GIS/IPS), and the Bureau of Intelligence and Research (INR) had not effectively followed and administered certain classification policies, procedures, rules, and regulations prescribed by Executive Order 13526.

Specifically, OIG reviewed 34 classified documents created in 2011 to assess the Department’s compliance with the Executive order’s classification standards and found that one of the 34 documents reviewed was overclassified. The overclassification occurred because the document preparer copied the markings and the classification level from the original telegram but the content of the new telegram did not contain any classified information. In addition, the preparer, when interviewed, stated that she had not taken the Department’s mandatory training.

In addition to the one document that was overclassified, OIG found that all 34 of the documents reviewed had marking deficiencies in one or more of the five required document marking elements. The document marking errors occurred because the Department had not effectively administered mandatory training for all Department employees with authority to classify national security information. The order states that classification authority “shall” be suspended for employees who fail to complete the required training. However, the Department’s *Foreign Affairs Manual*<sup>2</sup> (FAM) outlines less severe consequences, stating that such employees are merely “subject to” classification authority suspensions. Without proper training for employees with classification authority, classified documents, or portions of classified documents, may be improperly released; the authors of classified documents may be unknown; and employees may not have all of the information necessary for declassification. In addition,

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<sup>1</sup> Pub. L. No. 111-258, 124 Stat. 2648 (2010).

<sup>2</sup> 5 FAM 488.1, “Training for Original Classification Authorities and Derivative Classifiers.”



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overclassified documents are not available for public release, unnecessarily limiting disclosure and public access. On September 6, 2012, following the conclusion of OIG's fieldwork, the Department issued a worldwide telegram<sup>3</sup> to reiterate that training on classification marking is required for all employees with classification authority.

OIG also found that the Classified State Messaging Archive and Retrieval Toolset (SMART-C) 4.2 application, which the Department adopted in 2009 to assist with proper marking of classified emails and telegrams, further contributed to document marking discrepancies. In its evaluation of Confidential and Secret emails and telegrams, OIG found that Department personnel using SMART-C 4.2 were not marking classified emails and telegrams in accordance with the document marking standards prescribed by Executive Order 13526 because the SMART-C 4.2 application did not provide the fields necessary to properly mark classified emails. Specifically, the SMART-C 4.2 application did not have fields for classifiers to enter their names and positions. In addition, SMART-C 4.2 user instructions were based on the outdated Department of State Classification Guide (DSCG) 05-01 rather than on the current guide, DSCG 11-01, which includes the most recent document marking standards. As a result, until the Bureau of Information Resource Management (IRM) completes installation of SMART-C 5.5 for all classifiers, document marking discrepancies for emails and telegrams may continue to occur.

Further, OIG determined that A/GIS/IPS had established and performed a self-inspection of its classification program, as required by Executive Order 13526, but the self-inspection did not include a representative sample of all classified documents within the Department. OIG also found that A/GIS/IPS significantly overstated classification decisions reported in its FY 2011 Standard Form (SF) 311<sup>4</sup> submission to the National Archives and Records Administration, Information Security Oversight Office (ISOO), which is responsible for policy oversight of the Government-wide classification system, by as much as 2.4 million. According to A/GIS/IPS officials, the self-inspection did not include a representative sample of all classified documents because A/GIS/IPS did not have direct or timely access to Top Secret documents maintained by other Department bureaus. With respect to the overstated classification decisions reported for FY 2011, an INR official stated that this overstatement had occurred because he did not review the ISOO guidance on how to complete the SF-311 and had overestimated the number of derivative classification decisions made in FY 2011. The overstatement was then provided to A/GIS/IPS and subsequently reported to ISOO. As a result, the Department's self-inspection report is not reliable and is not a true representation of all classification decisions made by the Department. In addition, since A/GIS/IPS is responsible for submitting the SF-311 report to ISOO, the overstatement of the number of classification decisions made in FY 2011 led to an inaccurate reporting that negatively impacted the annual report to the President. Overstatements distort the volume of classification documents handled by the Department. Knowing the accurate number of documents helps an agency plan for resources to secure and maintain classified documents.

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<sup>3</sup> 2012 STATE 00090900, "Required Training for Classifiers of National Security Information," telegram, Sept. 6, 2012.

<sup>4</sup> SF-311, "Agency Security Classification Management Program Data." This form is due November 15 of each year.

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OIG offered six recommendations intended to enhance the Department's classification program. These recommendations included updating or amending the *Foreign Affairs Manual* (FAM) to reflect that classification training is required by the Executive order; updating the SMART-C application to facilitate compliance with classification standards; and implementing a methodology to select a representative sample of classified documents for the annual self-inspection, along with a process to validate SF-311 submissions by Department bureaus.

**Management Comments**

In December 2012, OIG provided a draft of this report to the A Bureau, the Bureau of Diplomatic Security (DS), the Foreign Service Institute (FSI), INR, and IRM. The report's six recommendations were addressed to the A Bureau as the primary action office, with each of the three bureaus and FSI named as a coordinating office for specific recommendations.

The A Bureau, in its response to the draft report (see Appendix B), suggested that the action office for Recommendations 1–5 be redirected to other bureaus and concurred “in part” with Recommendation 6. The A Bureau also questioned the extent to which the audit accurately captured the purposes of the audit requirement pertaining to the Reducing Over-Classification Act. The A Bureau also provided additional comments that did not relate directly to the recommendations ranging from document classification and marking to OIG's audit sample to the division of responsibility for implementing Executive Order 13526 (these comments and OIG's replies are in Appendix G).

DS, FSI, INR, and IRM also provided responses to the draft report (see Appendices C–F, respectively). In some cases, the responses provided by these bureaus conflicted with the responses provided by the A Bureau. Based on the collective responses to the draft report, OIG made technical adjustments to the report as appropriate and concluded that the A Bureau should remain the action office for all six of the report's recommendations.

OIG considers Recommendations 1 and 6 resolved, pending further action, and Recommendations 2–5 unresolved. The bureaus' responses to the recommendations and OIG's replies are presented after each recommendation.

**Background**

OIG undertook this evaluation to fulfill requirements in the Reducing Over-Classification Act,<sup>5</sup> which was enacted October 7, 2010. The Act requires the Inspector General of each Federal department or agency “with an officer or employee who is authorized to make original classifications” to perform evaluations “of that department or agency . . . to assess whether” the department or agency had applied and complied with classification policies, procedures, rules, and regulations. The Act was designed to address the issues highlighted by the National Commission on the Terrorist Acts Upon the United States<sup>6</sup> about overclassification of information and to promote information sharing across the Federal Government and with State,

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<sup>5</sup> Pub. L. No. 111-258, 124 Stat. 2648 (2010).

<sup>6</sup> The Commission is commonly referred to as the 9/11 Commission.

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local, tribal, and private sector entities. As stated in the Reducing Over-Classification Act, “Overclassification of information interferes with accurate, actionable, and timely information sharing, increases the cost of information security, and needlessly limits stakeholder and public access to information.”<sup>7</sup>

### **Reducing Over-Classification Act**

Section 6(b) of the Act requires that the Inspector General of each Federal department or agency with an officer or employee who is authorized to make original classifications (a) assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component and (b) identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency, or component. The Act established specific reporting deadlines for the Inspectors General: The first evaluation is to be completed by September 30, 2013, and the second report is to be completed by September 30, 2016. The Inspectors General are also required to coordinate with each other and with ISOO to ensure that evaluations follow a consistent methodology, as appropriate, that allows for cross-agency comparisons.

### **Executive Order 13526**

President Barack Obama issued Executive Order 13526, “Classified National Security Information,” on December 29, 2009, which became effective June 27, 2010, to prescribe a uniform system for classifying, safeguarding, and declassifying national security information. It also established a monitoring system to ensure compliance with original and derivative classification policy, declassification of classified material, and safeguarding of national security information. In addition, the order outlined specific mandatory training requirements for those with original and derivative classification authority. It also stated that the training must consist of “classification standards, classification levels, classification authority, classification categories, duration of classification, identification and markings, classification prohibitions and limitations, sanctions, and classification challenges.”

### **The Implementing Directive**

ISOO is responsible for policy oversight of the Government-wide security classification system. ISOO derives its authorities from Executive Order 13526 and “issues directives necessary to implement the Order.”<sup>8</sup> ISOO published the Implementing Directive for Executive Order 13526, effective June 25, 2010, in the Code of Federal Regulations.<sup>9</sup> To fulfill its oversight responsibility, ISOO must conduct onsite reviews of agency programs for classifying, safeguarding, and declassifying national security information. In addition, the senior agency official is required to report annually to ISOO on the agency’s self-inspection program. Section 2001.60(a) of the ISOO Directive states that senior agency officials “shall establish and maintain an ongoing agency self-inspection program, which shall include regular reviews of representative

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<sup>7</sup> Pub. L. No. 111-258.

<sup>8</sup> 32 C.F.R. §§ 2001 and 2003.

<sup>9</sup> Ibid.

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samples of the agency's original and derivative classification actions." Agencies also have a responsibility to annually report to ISOO classification data on their classification information security programs via the SF-311. This classification data includes the number of original and derivative classifications and the number of Confidential, Secret, and Top Secret classification decisions in the agency. The Executive order requires the use of the SF-311, and the data is used in ISOO's annual report to the President.

**Information Technology Applications Utilized by the Department**

The Microsoft Outlook SMART application, part of the Department's SMART system, is used to send emails and telegrams on both OpenNet<sup>10</sup> and ClassNet.<sup>11</sup> SMART-C is designed to assist classifiers in marking Confidential and Secret emails and telegrams on ClassNet in accordance with the Executive order. Each SMART-C email or telegram is required to have a classification level, such as Confidential or Secret; the classification authority of the individual making the classification, including name and position; the basis of the classification; and the duration of the classification. SMART-C is not used by the Department for Top Secret emails or telegrams.

**Department Bureaus Responsible for Implementation of Executive Order 13526**

Within the Department, A/GIS/IPS and DS share responsibility for implementing Executive Order 13526. A/GIS/IPS is responsible for ensuring compliance for classifying, declassifying, and marking classified information under the Executive order, as well as for developing training and guidance on classification and declassification. INR provides A/GIS/IPS with data on classification decisions, in addition to the data that A/GIS/IPS pulls from the State Archive System (SAS), as required for the annual SF-311 report to ISOO. DS is responsible for protecting and safeguarding classified information and special access programs under the purview of the Secretary of State. Finally, FSI delivers training to the U.S. foreign affairs community through both classroom and online training, including classification training.

**Objectives**

The objectives of this evaluation were to determine whether applicable classification policies, procedures, rules, and regulations were adopted, followed, and effectively administered within the Department and to identify policies, procedures, rules, regulations, or management practices that might contribute to persistent misclassification of material within the Department.

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<sup>10</sup> OpenNet is the Department's internal network (intranet), which provides access to Department-specific Web pages, email, and other resources.

<sup>11</sup> ClassNet is the Department's worldwide national security information computer network and may carry information classified at or below the Secret level.

## Evaluation Results

### Finding A. National Security Information Classification Needs Improvement

OIG found that the Department had generally adopted the classification policies, procedures, rules, and regulations prescribed by Executive Order 13526. However, A/GIS/IPS and INR had not effectively followed and administered certain classification policies and procedures. Specifically, OIG reviewed 34 classified documents created in 2011 to assess the Department's compliance with the Executive order's classification standards and found that one of the 34 documents reviewed was overclassified. The overclassification occurred because the document preparer copied the markings and the classification level from the original telegram, but the content of the new telegram did not contain any classified information. In addition, when interviewed, the preparer stated that she had not taken the Department's mandatory training.

In addition to the one document that was overclassified, OIG found that all 34 of the documents reviewed had marking deficiencies in one or more of the five required document marking elements. The document marking errors occurred because the Department had not effectively administered mandatory training for all Department employees with authority to classify national security information. The order states that classification authority "shall" be suspended for employees who fail to complete the required training. However, the FAM<sup>12</sup> outlines less severe consequences, stating that such employees are merely "subject to" classification authority suspensions. Without proper training for employees with classification authority, classified documents, or portions of classified documents, may be improperly released; the authors of classified documents may be unknown; and employees may not have all of the information necessary for declassification. In addition, overclassified documents are not available for public release, unnecessarily limiting disclosure and public access. On September 6, 2012, following the conclusion of OIG's fieldwork, the Department issued a worldwide telegram<sup>13</sup> to reiterate that training on classification marking was required for all employees with classification authority.

### Requirements of Executive Order 13526

Executive Order 13526<sup>14</sup> states that three classification levels may be applied to national security information: (1) "Top Secret," the unauthorized disclosure of which could cause exceptionally grave damage to national security; (2) "Secret," the unauthorized disclosure of which could cause serious damage to national security; and (3) "Confidential," the unauthorized disclosure of which could cause damage to national security. The Executive order sets forth the specific conditions that must be met when making classification decisions and outlines the procedures to properly mark and classify documents. Specifically, section 1.6 requires identification of the original classification authority by name and position, agency and office of origin of the original classification authority, appropriate declassification instructions, and a reason for classification that cites an applicable classification category from those listed in

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<sup>12</sup> 5 FAM 488.1.

<sup>13</sup> 2012 STATE 00090900, telegram, Sept. 6, 2012.

<sup>14</sup> Executive Order 13526, "Classified National Security Information," sec. 1.2, Dec. 29, 2009.

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section 1.4 of the Executive order (for example, foreign relations, intelligence activity, and scientific matters relating to the national security). Each document should also contain the appropriate portion markings to indicate which sections are classified, at what classification levels, and which are unclassified.

In response to the Executive order, ISOO revised and disseminated guidance on marking classified documents properly in the form of the Marking Classified National Security Information booklet,<sup>15</sup> dated December 2010. In addition, ISOO developed a document marking checklist that identifies five required marking elements, which ISOO uses when evaluating agencies for compliance with classification requirements. Specifically, each originally classified document must contain the following information:<sup>16</sup>

1. Overall Marking—The document includes overall classification markings (Confidential, Secret, or Top Secret).
2. “Derived From” Line—The document includes the “Classified by” line and type of document, date of document, subject, and office and agency of origin.
3. “Classified By” Line—The document cites classification authority by name and position or personal identifier.
4. Duration—The document includes duration of the classification.
5. Portion Marking—The document includes required portion markings.

The Executive order includes requirements for derivative classifications. Derivative classifiers must also identify themselves by name and position or personal identifier. In addition, derivative classifiers must observe original classification decisions and carry forward the pertinent markings. In the event of multiple sources, the derivative classifier “shall carry forward” the date or event for declassification that corresponds to the longest period of classification among the sources and list all the source materials.

The Executive order<sup>17</sup> also states that original and derivative classifiers must have training in proper classification:

All original classification authorities must receive training in proper classification (including the avoidance of over-classification) and declassification as provided in this order and its implementing directives at least once a calendar year.

Persons who apply derivative classification markings shall receive training in the proper application of the derivative classification principles of the order, with an emphasis on avoiding over-classification, at least once every two years.

In addition, the Executive order<sup>18</sup> requires that original and derivative classification authorities for those classifiers who do not fulfill mandatory training requirements be suspended

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<sup>15</sup> Marking Classified National Security Information, Dec. 2010.

<sup>16</sup> ISOO Document Review Sheet and Explanation of Discrepancies.

<sup>17</sup> Executive Order 13526, secs. 1.3(d) and 2.1(d).

<sup>18</sup> Requirements for suspension are covered in Executive Order 13526, sec. 1.3(d), for original classifiers and sec. 2.1(d) for derivative classifiers.

by the agency head or the senior agency official, designated under section 5.4(d) of the order, until the required training is completed.

### **Department Implementation of Executive Order 13526**

In May 2011, the Department updated the DSCG 05-01, which became DSCG 11-01, to include the new guidance for identifying and marking national security information. The Department issued FAM<sup>19</sup> requirements, which established procedures to implement Executive Order 13526. The Department also issued an accompanying *Foreign Affairs Handbook*<sup>20</sup> (FAH) subchapter, containing guidance for classifying telegrams and emails using SMART.

On June 28, 2010, the Department issued a telegram to all diplomatic and consular posts on important changes in classification requirements contained in Executive Order 13526. This telegram was followed by a Department Notice (issued on July 1, 2010), which restated the information in the earlier telegram. Both the telegram and the Department Notice stated that an online course for classification training was in development and that the course was anticipated to be available to employees in late 2010.<sup>21</sup> On August 19, 2011, A/GIS/IPS, in collaboration with FSI, introduced an online training course, Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323). As an alternative to the online course, by request, A/GIS/IPS provided an in-person classification training briefing to offices and bureaus. On September 6, 2012, the Department issued a telegram<sup>22</sup> reminding employees that the course was required and that employees were responsible for completing the PK323 training.

### **Overclassification**

From the sample of 34 documents reviewed, OIG found one telegram, sent on February 28, 2011, that had been overclassified. ISOO defines<sup>23</sup> overclassification as falling into one of three categories: (a) “clear-cut,” the information in the document does not meet the standards necessary for classification; (b) “questionable,” while the question of meeting classification standards is arguable, classification does not appear to be necessary to protect our national security; and (c) “partial,” at least one portion of the document appears to be unnecessarily classified, although the overall classification of the document is correct. The information contained in the February 28, 2011, telegram, if exposed, would not reasonably be expected to cause damage to national security. The telegram was from the SAS repository and was incorrectly marked as having been derived from a previous Confidential message. However, the content of the telegram only mentioned the original telegram and did not disclose any information from the original telegram to warrant the Confidential classification level.

OIG interviewed the preparer of the telegram to determine why the document was marked at the Confidential classification level, and the preparer stated that she had copied the

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<sup>19</sup> 5 FAM 480, “Classifying and Declassifying National Security Information—Executive Order 13526.”

<sup>20</sup> 5 FAH-3 H-700, “E.O. 13526, Telegram and SMART Email Classification.”

<sup>21</sup> 2010 STATE 00067242 “E.O. 13526 on Classified National Security Information in Effect June 27,” telegram, June 28, 2010.

<sup>22</sup> 2012 STATE 00090900, telegram, Sept. 6, 2012.

<sup>23</sup> ISOO Document Review Sheet and Explanation of Discrepancies.

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Confidential marking from the original telegram and had applied the classification level to the new telegram. After learning of the appropriate classification standards, the preparer stated that she recognized that the telegram had been overclassified and acknowledged that she had not taken the PK323 online training.

### **Document Markings**

OIG selected a sample of classified documents from three repositories—SAS from A/GIS/IPS, the Intelligence and Research production database from INR, and the Top Secret collateral documents inventory list from DS. The SAS database, which is maintained by A/GIS/IPS, accounts for all telegrams and SMART emails from the unclassified level up to the Secret classification level. INR has a production database that consists of electronic classified viewpoints, focuses, assessments, and internal documents such as memorandums.<sup>24</sup> The INR production databases are classified from Secret to Top Secret and have a Sensitive Compartmented Information<sup>25</sup> (SCI) tag. Since DS is responsible for safeguarding Top Secret documents, DS maintains an inventory list of all physical locations within the Department where hard copies of Top Secret collateral documents are stored. From this inventory, OIG selected a sample of two hard copy Top Secret collateral documents<sup>26</sup> stored in Department safes. (OIG's evaluation methodology is detailed in Appendix A.)

OIG reviewed 34 documents from document repositories and inventory lists maintained by A/GIS/IPS, INR, and DS and found that each of these documents had been completed incorrectly. Specifically, OIG found a total of 54 discrepancies because some of the documents reviewed were missing more than one of the five required marking elements. OIG found that 22 (65 percent) of the Department's classified documents sampled had portion marking errors while 21 (62 percent) of the sampled classified documents lacked proper "Classified by" information (for example, the document cited classification authority by name and position or personal identifier). Moreover, the salient type of discrepancy varied by the database reviewed. For example, of 20 classified documents reviewed from SAS, OIG found that 19 (95 percent) of these documents did not have proper portion markings, as required by the Executive order. All of the INR SCI documents evaluated did not include the names and titles of the classifiers. Furthermore, a Top Secret draft memorandum<sup>27</sup> from an inventory list maintained by DS lacked all five required marking elements. After the conclusion of OIG's fieldwork, INR stated that a software issue rather than a lack of training had resulted in an incorrect marking. The results of OIG's review of documents sampled from three Department repositories are shown in Table 1.

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<sup>24</sup> The classified viewpoints, focuses, assessments, and internal documents in the INR production database are controlled documents that are intended to inform policy makers on topics of interest.

<sup>25</sup> SCI refers to certain classified information that relates to specific national security topics or programs, the existence of which is not publicly acknowledged or the sensitive nature of which requires special handling.

<sup>26</sup> Originally, OIG planned to sample seven Top Secret collateral documents but chose a sample of only two documents because five documents were drafted by other agencies.

<sup>27</sup> Draft Memorandum dated February 1, 2011, Office of the Legal Adviser, Office of Political-Military Affairs.



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**Table 1. Results of OIG's Review of Classified Documents Created in 2011**

Department Repository of Classified Information	Sample Size	Discrepancies Identified					
		Marking (Overall Classification Markings)	Derived From	Classified By	Duration	Portion Marking	Total Discrepancies
State Archive System (SAS)	20	1	7	8	0	19	35
Bureau of Intelligence and Research (INR) Production Database	12	0	0	12	0	1	13
Diplomatic Security (DS) Inventory List of Collateral Documents	2	1	1	1	1	2	6
<b>Totals</b>	<b>34</b>	<b>2</b>	<b>8</b>	<b>21</b>	<b>1</b>	<b>22</b>	<b>54</b>

Source: Prepared by OIG based on the results of its sample. The sample included approximately an equal number of different types of documents (for example, original classification authority, derivative authority, Confidential, Secret, Top Secret collateral, Secret/SCI, and Top Secret/SCI and documents created both domestically and at overseas posts).

OIG judgmentally selected a sample of 13 Department employees involved with the classification of the 34 documents. These employees were selected for interview based on discrepancies identified in an effort to understand the cause of the discrepancies. Of those 13 employees, four employees stated that they had not received training on proper classification procedures and were unaware that such training was required. The other nine employees had received internal office-specific training (INR provides its own training for classifying documents from the intelligence community, and employees at overseas post locations indicated they had received some post-specific training). However, none of the document classifiers OIG interviewed had taken the required FSI online training course Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323) or attended an in-person classification briefing provided by A/GIS/IPS. Additionally, six of the 13 employees interviewed utilized SMART-C while classifying documents, and three employees stated that some discrepancies were due to the use of an outdated version of the application. (Details of the SMART-C discrepancies are in Finding B.)

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**Department Administration of Classification Training**

The Department sent a telegram<sup>28</sup> on June 28, 2010, that notified all Department employees about the training requirements included in Executive Order 13526 and stated that “[PK323] is obligatory and all original and derivative classifiers should take the course as soon as they reasonably can.” The subject line of the telegram stated, “E.O. 13526 on Classified National Security Information in Effect June 27,” and the paragraph subheading for training stated, “Classification Training.” Neither of these headings emphasized to the telegram recipient that the classification training was obligatory. Similarly, a Department Notice followed the telegram on July 1, disseminating the content of the earlier telegram.

When A/GIS/IPS, in collaboration with FSI, introduced the PK323 distance learning course in August 2011, A/GIS/IPS did not follow the Department’s practices for announcing mandatory training. Department mandatory training programs are introduced through a telegram, which specifically announces that “mandatory training” is available and that those employees required to take and pass the course must do so by a stated deadline. A concurrent Department announcement is generally released, again notifying employees of the “release of the mandatory training course” and the employee’s responsibility to complete the course by a stated deadline. For example, when a mandatory course on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, commonly referred to as the “No FEAR Act,” was introduced in November 2008, a telegram<sup>29</sup> was sent notifying all employees of the mandatory training requirement for the course and the deadline by which the training was to be completed. The subject line of the telegram stated, “Mandatory Training on the No FEAR Act Is Now Available Through FSI’s Distance Learning Course.” Also, under “Audience,” the telegram stated, “The training is mandatory for US citizen Department of State employees.” Further, under the same section, the telegram stated, “Employees are reminded of their responsibility to take and pass this course by May 1, 2009.” The Department concurrently released an announcement with the heading “Mandatory Training for All DOS Employees.” The announcement also reminded employees of their responsibility to take and pass the course by the established deadline. In addition, the Department’s Chief Information Security Officer followed the same procedure in March 2004 to inform the post’s Information Systems Security Officer, Information Systems Officer, Information Management Officer, and Management Officer that a new FSI Cyber-security Awareness course was available online, was mandatory, and was to be completed by all network users annually.

When the June 2010 telegram about Executive Order 13256 was issued, the classification training course PK323 was under development and would not become available until August 2011, approximately 13 months after the Executive order became effective. However, when A/GIS/IPS introduced the online PK323 course in August 2011, the heading on the announcement stated, “FSI Launches New Online Course—Classified and Sensitive Information: Identifying and Marking (PK323).” The only statement made in the announcement regarding enrollment was that “Department employees with National Security Clearances should enroll” in the program. The announcement did not mention the mandatory nature of the course, deadlines,

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<sup>28</sup> 2010 STATE 00067242, telegram, June 28, 2010.

<sup>29</sup> “Mandatory Training on the No FEAR Act Is Now Available Through FSI’s Distance Learning Course,” 2008 STATE 00124825, telegram, Nov. 2008.

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or penalties if the training was not completed. Further, as stated, the PK323 online course was made available to Department employees in August 2011. However, Volume 13, "Training and Professional Development," of the FAM, does not include PK323 as an agency-mandated course, even though it is the Department's practice to list all mandated training courses in Volume 13 of the FAM.<sup>30</sup>

According to Department officials, the PK323 training course was not announced as mandatory training because the clearances and approvals needed to declare the course as mandatory had not been obtained. An official from A/GIS/IPS stated that an action memorandum to make the course mandatory had been prepared on August 8, 2011, for the Under Secretary for Management's approval, but the memorandum was not advanced because the Director of Human Resources and the employee unions had not reviewed and approved the training. In addition, Department officials were deliberating about the optimum length and content of the PK323 course. As a result, the announcement of the mandatory training did not occur until September 6, 2012. OIG determined that the September 2012 announcement was sufficient to make all applicable Department employees aware of the training requirement. Therefore, OIG is not making a recommendation to announce the training as mandatory but will monitor the Department's implementation through enforcement of the training requirement.

**Department Enforcement of Mandatory Classification Training**

OIG also found that the Department had not fully adopted the enforcement language prescribed by the Executive order to suspend classification authority when employees do not take the required training. Specifically, the Executive order<sup>31</sup> states that anyone with classification authority "who does not receive such mandatory training at least once within a calendar year **shall** [emphasis added] have their classification authority suspended by the agency head or the senior agency official designated under section 5.4(d) of this Executive order until such training has taken place." However, guidance included in the FAM<sup>32</sup> states that Department employees with classification authority "who fail to receive such training are **subject to** [emphasis added] having their classification authority suspended until such training is received." This language is not as consequential as the language in the Executive order and may not prompt personnel to take the training requirement as seriously.

According to A/GIS/IPS officials, the Department had not established a tracking mechanism to monitor compliance with the training. However, FSI currently has the capability to record training completed by Department employees to include the online PK323 course. Further, A/GIS/IPS plans to coordinate with FSI to establish a process to notify Department supervisors of employee compliance with the classification training requirement.

**Improper Classification and Document Marking Errors Adversely Affect National Security**

Improper classification or document marking errors may cause confusion on how to share national security information or may negatively affect the dissemination of information within

<sup>30</sup> 13 FAM 300, "Agency Mandated Training."

<sup>31</sup> Executive Order 13526, sec 1.3(d).

<sup>32</sup> 5 FAM 488.1.

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the Federal Government and with State, local, and tribal entities and with the private sector. For example, when documents are overclassified, officials may not have key information necessary to make decisions. Further, the absence of portion markings may contribute to the inadvertent compromise of classified information and/or inappropriate application of classification. Additionally, if an author of a document is unknown, later original or derivative classifiers would not have the opportunity to discuss the content or classification level with the author. Lastly, when information regarding declassification is omitted, documents may be classified for longer periods of time than necessary.

**Recommendation 1.** OIG recommends that the Bureau of Administration add the course Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323) to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.

**Bureau of Administration Response:** The A Bureau stated that FSI should be the lead action office for the recommendation and noted that FSI, in consultation with the A Bureau, had initiated clearance of a new subchapter in Volume 13 of the FAM, section 300, covering mandatory training (13 FAM 370, "Mandatory Training for Classifiers of National Security Information").

**FSI Response:** As a participating entity for Recommendation 1, FSI stated that it, "in consultation with A/GIS/IPS/PP," had initiated the new subchapter in 13 FAM 300 cited in the A Bureau's response, which was put into the proper clearance process with a December 13, 2012, deadline. However, FSI disagreed with the A Bureau's contention that it should be the lead action office for Recommendation 1, stating that the recommendation should be "changed" to reflect that FSI would work with the A Bureau to ensure that the course PK323 "is added" to the mandatory training list of the FAM.

**OIG Reply:** OIG maintains that the A Bureau is the lead action office for the recommendation and is responsible for ensuring the PK323 course is added to the mandatory training list in the FAM. Because FSI has initiated the new subchapter in 13 FAM 300 covering mandatory training, OIG considers this recommendation resolved, pending further action. This recommendation can be closed when OIG reviews and accepts documentation showing that the new FAM subchapter has been published to promote awareness of the PK323 training requirement.

**Recommendation 2.** OIG recommends that the Bureau of Administration amend the *Foreign Affairs Manual* to align with the language in Executive Order 13526 that states that those who fail to receive classification training "shall" have their classification authority suspended.

**Bureau of Administration Response:** The A Bureau stated that DS should be the lead action office for this recommendation. The A Bureau further stated that "suspension of classification authority is a decision that can only be made at the appropriate levels within the Department" and that it "does not have the authority to suspend classification authority of Departmental employees." The A Bureau also stated that it would

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“coordinate with DS and all appropriate Departmental offices to align language” in the FAM as needed.

**Bureau of Diplomatic Security Response:** DS did not agree with the A Bureau’s contention that it should be the lead action office for this recommendation, stating the Under Secretary for Management is the “Department’s Senior Agency Official for compliance with” the Executive order, the “Assistant Secretary for A is responsible for classification management provisions” of the order, and the Assistant Secretary for DS is responsible for “implementing the safeguarding provisions” of the order. DS stated that OIG’s recommendation in the draft report “accurately captures that division of labor” and that “[a]lthough the Under Secretary for Management would have the ultimate authority for granting original classification authority[,] granting and suspension of classification authority is clearly a function of classification management not of safeguarding.”

**OIG Reply:** OIG considers this recommendation unresolved and maintains that the A Bureau is the lead office for this recommendation. The A Bureau recognized that the Assistant Secretary for Administration is responsible for the classification management provisions of the Executive order and therefore is responsible for amending the FAM as specified. This recommendation can be closed when OIG reviews and accepts documentation showing that the A Bureau has amended the FAM as recommended.

**Recommendation 3.** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, immediately establish and implement a process to identify Department of State classifiers who have not complied with the classification training requirement and to take the actions required by the amended *Foreign Affairs Manual*.

**Bureau of Administration Response:** The A Bureau stated that FSI should be the lead action office for this recommendation and that the A Bureau would “coordinate with FSI and other appropriate Departmental offices to develop a strategy for tracking classification training completion.”

**Foreign Service Institute Response:** FSI did not agree that it should be the lead action office for this recommendation, stating that it “does not track compliance for any mandatory training,” does not “determine who should take mandatory courses,” and is “not responsible for the penalties if someone does not take the mandatory offering.” In addition, FSI stated that the A Bureau should explore “a comprehensive approach” that allows the A Bureau to determine who has to take the mandatory training and then “set up a system to be able to track it.”

**OIG Reply:** OIG considers this recommendation unresolved and maintains that the A Bureau is the lead action office for this recommendation. This recommendation can be closed when OIG reviews and accepts documentation showing that the A Bureau has developed a strategy for tracking classification training completion and enforcing consequences for noncompliance with the training requirement in the amended FAM.

## **Finding B. The SMART-C 4.2 Application Needs Updating**

OIG found that the SMART-C 4.2 application, which was adopted by the Department in 2009 to assist with the proper marking of classified emails and telegrams, contributed to the document marking discrepancies that OIG found in its evaluation of Confidential and Secret emails and telegrams. Department personnel using SMART-C 4.2 were not marking classified emails and telegrams in accordance with document marking standards prescribed by Executive Order 13526. The discrepancies occurred because the SMART-C 4.2 version does not allow all classifiers and drafters to properly mark classified emails. Specifically, the SMART-C 4.2 application does not have fields for the derivative classifiers or drafters to enter their names and positions. Rather, only original classifiers have access to such fields. In addition, SMART-C 4.2 user instructions are based on the outdated DSCG 05-01 guide rather than the current guide, DSCG 11-01, which includes the most recent document marking standards. Until IRM completes installation of SMART-C 5.5 for all classifiers, document marking discrepancies for emails and telegrams may continue.

### **Document Markings Discrepancies**

From the sample of 34 classified documents, OIG evaluated 20 Secret and Confidential emails and telegrams obtained from the SAS repository and found nine document marking discrepancies that were caused by limitations with the SMART-C 4.2 application. As detailed in Table 1 in Finding A, nine (26 percent) of 35 of the total discrepancies found in the SAS repository were attributable to this application. Discrepancies related to the use of SMART-C 4.2 were found in the “Derived from” and the “Classified by” lines, as presented in Table 2.

**Table 2. Discrepancies Attributed to the SMART-C 4.2 Application**

State Archive System (SAS)	Sample Size	Number of Discrepancies					
		Marking (Overall Classification Marking)	Derived From	Classified By	Duration	Portion Markings	Total Deficiencies
<b>Totals</b>	<b>20</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>9</b>

Source: Prepared by OIG based on the results of its sample.

The SMART-C related discrepancies occurred because the SMART-C 4.2 version does not allow all classifiers and drafters to properly mark classified emails. For example, when using the SMART-C 4.2 application, derivative classifiers and drafters were not able to enter their names and titles because the fields were only accessible to classifiers with original classification authority. In addition, the “Derived from” field is pre-populated with the outdated DSCG 05-01 guide rather than the current guide, DSCG 11-01. Further, during review of SMART-C 4.2, OIG found that the data-entry screen did not have a selection box for the 50X1-HUM<sup>33</sup> as one of the

<sup>33</sup> 50X1-HUM is a duration marking to be used only if the information to be protected includes a confidential human source or human intelligence source. This type of particularly sensitive information is not subject to automatic declassification at 25 years.

declassification dates. SMART-C 5.5 addresses these issues and allows classifiers to type in their names and titles and to select 50X1-HUM as a declassification date.

As of June 2012, 185 (54 percent) of 343 of the Department bureaus and overseas posts used SMART-C 4.2. The remaining 158 Department bureaus, offices, and overseas posts have been updated or are in the process of being updated to the SMART-C 5.5 application. IRM stated that the process of updating SMART-C 4.2 to SMART-C 5.5 is underway for the entire Department. OIG reviewed the SMART-C 5.5 version and concluded that the application had all the fields needed to address the document marking discrepancies identified in the SMART-C 4.2 version.

The SMART-C 4.2 application contributed to the discrepancies OIG found with document markings because it did not allow classifiers for both derivative and original classifications to include their names and positions, which is contrary to the document marking standards prescribed by Executive Order 13526. In addition, approximately half of the Department classifiers are currently using SMART-C 4.2. Until IRM completes installation of SMART-C 5.5 for all classifiers, document marking discrepancies for emails and telegrams may continue.

**Recommendation 4.** OIG recommends that the Bureau of Administration, in coordination with the Bureau of Information Resource Management, replace the Classified State Messaging Archive and Retrieval Toolset (SMART-C) 4.2 application with SMART-C 5.5 for all users of the classified email network to promote compliance with Executive Order 13526.

**Bureau of Administration Response:** The A Bureau stated that IRM should be the lead action office for this recommendation because IRM “is currently deploying SMART-C 5.5” and that it will “continue to collaborate with IRM to ensure that SMART-C 5.5 meets classification marking requirements.”

**OIG Reply:** OIG considers this recommendation unresolved and maintains that the A Bureau is the lead action office for this recommendation. This recommendation can be closed when OIG reviews and accepts documentation showing that the A Bureau has coordinated with IRM to ensure that SMART-C 4.2 is updated to SMART-C 5.5 for all users of the classified email network to promote compliance with Executive Order 13526.

### **Finding C. The Self-Inspection Program and the SF-311 Report Need Improvement**

OIG found that A/GIS/IPS had established and had performed a self-inspection of its classification program, as required by Executive Order 13526, but the self-inspection had not included a representative sample of all classified documents within the Department. OIG also found that A/GIS/IPS had significantly overstated classification decisions reported in its

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FY 2011<sup>34</sup> submission to ISOO by as much as 2.4 million. According to A/GIS/IPS officials, the self-inspection did not include a representative sample of all classified documents because A/GIS/IPS did not have direct or timely access to Top Secret documents maintained by other Department bureaus. With respect to the overstated classification decisions reported for FY 2011, an INR official stated that this overstatement occurred because he did not review the ISOO guidance on how to complete the SF-311 and overestimated the number of derivative classification decisions made by the Department in FY 2011. The overstatement was then provided to A/GIS/IPS and subsequently reported to ISOO. As a result, the Department's self-inspection report was not reliable, was not a true representation of all the Department's classification decisions, and therefore was not in full compliance with the requirements of the Executive order. In addition, since A/GIS/IPS is responsible for submitting the SF-311 report to ISOO, the overstatement of the number of classification decisions made in FY 2011 led to an inaccurate reporting that negatively impacted the annual report to the President.

**Requirements for Self-Inspection and Classification Data Reporting**

Executive Order 13526 makes the senior level agency official responsible for "establishing and maintaining an ongoing self-inspection program, which shall include the regular reviews of representative samples of the agency's original and derivative classification actions."<sup>35</sup> The purpose of the self-inspection is to "evaluate the adherence to the principles and requirements of the Order . . . and the effectiveness of agency programs covering original classification, derivative classification, declassification, safeguarding, security violations, security education and training, and management and oversight."<sup>36</sup> In addition, ISOO is required to report annually to the President on the implementation of the Executive order<sup>37</sup> by collecting agency classification data via the SF-311 from executive branch agencies that create and/or handle classified national security information. The agencies are required to submit the completed forms on an annual basis to ISOO for inclusion in the report to the President.<sup>38</sup>

**The Self-Inspection Program**

A/GIS/IPS reported the results of its first self-inspection of the classification program to ISOO on January 20, 2012. OIG reviewed the self-inspection report and its results, focusing on original and derivative classification, and found that the Department had generally followed guidance contained in the Executive order in addition to the guidance provided by ISOO in its implementing memorandum dated April 5, 2011. However, the sample selected by A/GIS/IPS included Confidential and Secret documents, but it did not include Top Secret documents. Otherwise, A/GIS/IPS followed ISOO guidance in sampling 160 Confidential and Secret Department-prepared documents obtained from SAS. The sample consisted of 38 originally classified documents from 2010, 15 derivatively classified documents from 2010, 79 originally classified documents from 2011, and 28 derivatively classified documents from 2011. To

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<sup>34</sup> SF-311, Agency Security Classification Management Program Data. This form is due by November 15 of each year.

<sup>35</sup> Executive Order 13526, sec. 5.4.

<sup>36</sup> 32 C.F.R. §§ 2001 and 2003.

<sup>37</sup> Executive Order 13526, sec. 5.2.

<sup>38</sup> 32 C.F.R. § 2001.80(d)(1).



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determine whether the documents sampled were classified and marked properly, A/GIS/IPS used a worksheet modeled on the ISOO checklist to evaluate each of the classified documents. The following compliance categories were reviewed: Original Classification versus Derivative Classification, Standard for Classification (level), Use of Original or Derived Classification Authority, Classifier's Identity (name and title), Reason (optional for derivative), Duration, Declassification Event or Date, Portion Marking, and Invalid Marking.

According to A/GIS/IPS officials, Top Secret documents were not included in the sample of classified documents because A/GIS/IPS does not maintain Top Secret documents nor does it have direct or timely access to the Top Secret documents held at INR and DS. Further, because A/GIS/IPS had considered timely submission of the self-inspection report to ISOO important, the sample included only classified documents available to A/GIS/IPS in the SAS repository, which A/GIS/IPS maintains.

Because Top Secret documents were omitted from the self-inspection sample, the results reported to ISOO were not a true representation of all the Department's classification decisions, and therefore it was impossible to fully evaluate the Department's adherence to principles and requirements of the Executive order and the effectiveness of the Department's programs covering original and derivative classifications. Gaining an understanding of the classified documents created and held within the Department, to include the INR production database, classified email systems, and DS inventory of hard-copy collateral Top Secret documents, is a critical step toward achieving an effective self-inspection program that ensures that a proper representative sample can be selected for review.

**Recommendation 5.** OIG recommends that the Bureau of Administration, in coordination with the Bureau of Intelligence and Research and the Bureau of Diplomatic Security, develop and implement a sampling methodology that attains a representative sample of all classified documents maintained within the Department of State for its annual self-inspection of the classification program.

**Bureau of Administration Response:** The A Bureau stated that INR and DS should be the lead action offices for this recommendation and that it is "committed to ensuring the validity of all data provided to it by Departmental bureaus and offices in preparing the annual self-inspection report." The A Bureau also stated that the "problems" OIG identified in the report "with inaccurate data on Top Secret classification actions involve issues that are wholly outside of A/GIS/IPS's control, including the inability to directly access Top Secret documents controlled or maintained by other Department bureaus and the inability to independently verify data provided by INR."

**Bureau of Diplomatic Security Response:** DS disagreed with the A Bureau's contention that it should be a lead action office for the recommendation. DS stated that given that the Under Secretary for Management has overall authority for ensuring compliance with Executive Order 12958 while the Assistant Secretary for Administration is responsible for classification management provisions of the Executive order, to include marking requirements, the A Bureau should lead this effort, and as recommended by OIG, should do so in collaboration with INR and DS.

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**OIG Reply:** OIG considers this recommendation unresolved and maintains that the A Bureau is the lead action office for this recommendation. The A Bureau is responsible for preparing and submitting the annual self-inspection report and should therefore coordinate with other bureaus and offices impacted to develop and implement a sampling methodology that attains a representative sample of all classified documents maintained within the Department. In addition, the A Bureau should coordinate with DS and INR to obtain access to review Top Secret documents. This recommendation can be closed when OIG reviews and accepts documentation showing a sampling methodology that attains a representative sample of all classified documents maintained within the Department for its annual self-inspection of the classification program.

**Agency Security Classification Management Program Data Report (Standard Form 311)**

OIG found that A/GIS/IPS had not accurately reported derivative classification decisions in its SF-311 report for FY 2011. This inaccuracy occurred because information provided by INR about classification decisions involving emails had been overstated by as much as four times because of counting and oversight errors. According to the INR official tasked with compiling and providing the information to A/GIS/IPS, INR had not reviewed the ISOO guidance on how to accurately count the data required for the SF-311 report until OIG inquired about the reported data. In addition, A/GIS/IPS accepted and reported the data provided by INR without reviewing the submission and validating its accuracy. As a result, the data reported to ISOO by A/GIS/IPS significantly overstated the number of derivative classification decisions made by the Department in FY 2011.

In the Department, the Under Secretary for Management is the designated senior agency official responsible for the implementation of the Executive order. The Under Secretary delegated portions of the classification program, to include classification of information, to A/GIS/IPS. Statistical reporting under the Executive order via the SF-311 is performed by the A/GIS/IPS Deputy Assistant Secretary.

In June 2011, ISOO provided all Federal agencies with guidance<sup>39</sup> on how to complete the SF-311. The guidance requires agencies to count all original and derivative classification actions and states that estimates are allowable for derivative classification decisions only. In addition, the guidance provides specifics on how to count classified emails in which a derivative decision was made and cautions agencies against counting email strings and/or replies. The guidance also states that agencies should not include products classified by another agency or reproductions or copies in the count. Finally, the guidance suggested that when errors are detected following the submission of the SF-311, agencies should submit a revised SF-311.

In the Department's FY 2011 SF-311 report, the number of derivative classification decisions reported for 2011 was 3,169,448.<sup>40</sup> During discussions with INR regarding the process used to determine the number of derivative decisions made, OIG confirmed that the numbers

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<sup>39</sup> ISOO's informational booklet, SF 311: Agency Security Classification Management Program Data, June 2011.

<sup>40</sup> INR is responsible for determining and submitting to the A Bureau the number of classification decisions it made for inclusion in the SF-311 report.

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reported were inaccurate because INR had not followed the guidance provided by ISOO on how to count or estimate classified emails. According to the INR official responsible for the count, the INR system could not tally email by classification level (Top Secret, Secret, or Confidential); therefore, he manually counted each level of classified documents based on the email usage profile of INR users. After reviewing the ISOO guidance, the INR official determined that the number of derivative classifications made was overstated by as much as four times the actual number because he had counted the emails incorrectly, including duplicate replies in the email strings. Based upon this input, OIG estimated that the total number of derivative classifications for INR in 2011 would have been closer to 790,000. In addition, A/GIS/IPS simply reported the number of derivative decisions provided by INR without validating the accuracy of the number.

Because A/GIS/IPS is responsible for the preparation and submission of the SF-311 to ISOO, it is essential that A/GIS/IPS review the SF-311 in accordance with ISOO guidance. Inaccurate reporting by agencies negatively impacts the annual report to the President, as occurred when A/GIS/IPS reported a significant overstatement of the number of derivative classification decisions made by the Department in 2011.

**Recommendation 6.** OIG recommends that the Bureau of Administration ensure that all Department of State bureaus that contribute data reported on Standard Form 311 receive and comply with guidance from the National Archives and Records Administration, Information Security Oversight Office, that pertains to validating the data submitted to the National Archives and Record Administration is accurate.

**Bureau of Administration Response:** The A Bureau concurred “in part” with this recommendation, stating that it will continue to provide all Department bureaus that contribute data reported on SF-311 “with the appropriate guidance from the National Archives and Records Administration's Information Security Oversight Office.” The A Bureau also agreed to collaborate with appropriate Departmental offices to develop bureau-specific guidance for compiling the data required to be reported on the SF-311 but stated that “a senior official in each Department bureau or office that contributes data” to the SF-311 should be responsible for ensuring that the bureau or office that maintains that data validates the data before it is provided to the A Bureau.

**OIG Reply:** OIG acknowledges the A Bureau’s role in providing an accurate SF- 311 and agrees that the senior official in each bureau and/or office should ensure data provided to the A Bureau is accurate. However, OIG maintains that the A Bureau should validate the compilation of data reported in the SF- 311 before submitting the data to the National Archives and Records Administration's Information Security Oversight Office. OIG considers this recommendation resolved, pending further action. This recommendation can be closed when OIG reviews and accepts documentation showing that the A Bureau has provided Department bureaus and offices with specific guidance for submitting the data required for the SF- 311 report and that it validates the data for accuracy prior to submission.

## **List of Recommendations**

**Recommendation 1.** OIG recommends that the Bureau of Administration add the course Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323) to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.

**Recommendation 2.** OIG recommends that the Bureau of Administration amend the *Foreign Affairs Manual* to align with the language in Executive Order 13526 that states that those who fail to receive classification training “shall” have their classification authority suspended.

**Recommendation 3.** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, immediately establish and implement a process to identify Department of State classifiers who have not complied with the classification training requirement and to take the actions required by the amended *Foreign Affairs Manual*.

**Recommendation 4.** OIG recommends that the Bureau of Administration, in coordination with the Bureau of Information Resource Management, replace the Classified State Messaging Archive and Retrieval Toolset (SMART-C) 4.2 application with SMART-C 5.5 for all users of the classified email network to promote compliance with Executive Order 13526.

**Recommendation 5.** OIG recommends that the Bureau of Administration, in coordination with the Bureau of Intelligence and Research and the Bureau of Diplomatic Security, develop and implement a sampling methodology that attains a representative sample of all classified documents maintained within the Department of State for its annual self-inspection of the classification program.

**Recommendation 6.** OIG recommends that the Bureau of Administration ensure that all Department of State bureaus that contribute data reported on Standard Form 311 receive and comply with guidance from the National Archives and Records Administration, Information Security Oversight Office, that pertains to validating the data submitted to the National Archives and Record Administration is accurate.

## **Scope and Methodology**

The Office of Inspector General (OIG), Office of Audits, conducted this evaluation in response to the Reducing Over-Classification Act, enacted October 7, 2010. OIG conducted fieldwork for this evaluation from March to August 2012 in the Washington, DC, metropolitan area. This evaluation was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*, issued in 2012. These standards require inspections to be adequately planned and that evidence supporting findings, conclusions, and recommendations be sufficient, competent, and relevant. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the evaluation objectives.

To obtain background and criteria for the evaluation, OIG researched and reviewed regulations and guidance related to Executive Order 13526. These regulations and guidance included the Code of Federal Regulations;<sup>1</sup> the *Foreign Affairs Manual* (FAM); the *Foreign Affairs Handbook* (FAH); a 2006 Government Accountability Office (GAO) report;<sup>2</sup> guidance from the National Archives and Records Administration, Information Security Oversight Office (ISOO); and prior OIG reports as described.

Based on discussions with ISOO, OIG's evaluation scope focused on assessing to what extent the Department implemented the provisions of the Executive Order.<sup>3</sup>

To gain an understanding of how the Department implemented Executive Order 13526, OIG interviewed and reviewed documentation from Department officials in the Bureau of Administration, Global Information Services, Information Programs and Services (A/GIS/IPS); the Bureau of Intelligence and Research (INR); the Bureau of Diplomatic Security (DS); and an official from the Foreign Service Institute. Additionally, OIG interviewed drafters and classifiers of various classified documents from different bureaus, offices, and posts.

### **Prior OIG Reports**

OIG reviewed internal audit and inspection reports to identify previously reported information related to the classification of national security. Prior to the issuance of Executive Order 13526 and Public Law 111-258, OIG performed three reviews<sup>4</sup> related to classified information. The first report focused on the declassifying of materials, and the second and third reports focused on the handling and protection of classified information.

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<sup>1</sup> 32 C.F.R. §§ 2001 and 2003, "Classified National Security Information; Final Rule."

<sup>2</sup> *Managing Sensitive Information—DOD Can More Effectively Reduce the Risk of Classification Errors* (GAO-06-706, June 2006).

<sup>3</sup> Executive Order 13526, "Classified National Security Information," Dec. 29, 2009. Executive Order: Part 1—Original Classification, Part 2—Derivative Classification, and Part 5—Implementation and Review.

<sup>4</sup> *Declassifying State Department Secrets* (SIO/A-98-50, Sept. 1998), *Protection of Classified Information at State Department Headquarters* (SIO/A-04-11, Jan. 30, 2004), and *Protection of Classified Information at State Department Headquarters* (SIO/A-05-13, Feb. 1, 2005).

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### **Use of Computer-Processed Data**

The evaluation team used a significant amount of computerized data in this evaluation. Almost all of the classified documents OIG reviewed were electronic. OIG assessed the reliability of computer-generated data by requesting and reviewing classified documents from the Department of State's (Department) repositories and interviewing cognizant officials. OIG discovered that the Department does not have one centralized repository that holds all classified documents. In addition, OIG discovered from interviews with Department officials that there were some discrepancies in the Department's count of classified documents in the electronic repositories. For example, OIG discovered that the Department had overstated in its reporting to ISOO the amount of electronic classified documents.

### **OIG Review of Classified Documents**

OIG's team reviewed classified documents from two electronic archive systems. OIG obtained Confidential and Secret documents from the State Archive System (SAS) and obtained Secret/Sensitive Compartmented Information (SCI) and Top Secret/SCI documents from INR's production database. Because the INR production repository is classified at the Top Secret/SCI level, OIG did not have direct access to the repository. Therefore, hard copies of Secret/SCI and Top Secret/SCI documents were provided to OIG.

### **Review of Internal Controls**

OIG performed steps to assess the adequacy of internal controls related to the areas evaluated. For example, OIG gained an understanding of the Department's processes for classifying and archiving classified documents as well as for setting declassification dates for classified documents. The OIG team also discussed discrepancies identified during its review of the Department's self-inspection report for 2011. Additionally, OIG noted discrepancies in the Department's Standard Form 311<sup>5</sup> submitted to ISOO. OIG reviewed Federal guidance, such as Executive Order 13526, the implementing directive for Executive Order 13526, and ISOO's guidance to agencies. To determine whether the Department was in compliance with Executive Order 13526, OIG also performed a comparative analysis on Department guidance such as the FAM, the FAH, and the Department of State Classification Guide (DSCG) and on other Department guidance such as telegrams and memorandums. OIG's conclusions are presented in the respective Finding sections of this report.

### **Detailed Sampling Methodology and Results**

The objectives of this evaluation were to determine whether applicable classification policies, procedures, rules, and regulations had been adopted, followed, and effectively administered within the Department and to identify policies, procedures, rules, regulations, or management practices that might be contributing to persistent misclassification of material within the Department.

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<sup>5</sup> Standard Form 311, Agency Security Classification Management Program Data.

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### **Identification of Universes**

To attain the evaluation objectives, OIG planned to obtain and then evaluate via sampling two universes<sup>6</sup> (or populations), namely, the universe of all classified Department documents (both original and derivative) and the universe of the classified documents the Department reviewed during its self-assessment. OIG encountered no difficulty in identifying the universe of the latter, but the former was not available in its entirety for OIG review. OIG therefore used as its working population three subpopulations: A/GIS/IPS's State Archive System (SAS); INR's production database; and DS's collateral Top Secret hard-copy documents, which are located in Department safes at various bureaus and/or offices.

More specifically, OIG ascertained during its preliminary work that the Department's classified documents were not archived in a centralized location. Rather, OIG identified three main bureaus that had inventories of classified documents: A/GIS/IPS, INR, and DS. OIG further learned that A/GIS/IPS's SAS had an electronic archived version of Confidential and Secret documents, INR's production database had an electronic inventory of Secret/SCI and Top Secret/SCI documents, and DS had an inventory listing of all the collateral Top Secret documents that were the hard copies (located in Department safes at various bureaus and/or offices).

Finally, there were two other repositories of classified documents, namely, the Secretary's Archives, which are personal archives of the Secretary of State, and the INR Intelligence Community Email system. However, these two subpopulations were not employed in OIG's sample. OIG plans to evaluate a sample of documents from these archives in its next evaluation of compliance with the requirements of the Executive order. Additionally, an INR official informed OIG that the preponderance of the documents in the INR Intelligence Community Email system were classified emails that frequently were from other agencies.

### **Selection of Samples**

The sampling objective was twofold. OIG tested via sampling the Department's classified documents, which included Top Secret/SCI documents, Top Secret documents, Secret/SCI, Secret documents, and Confidential documents. OIG initially planned to select classified documents to test using statistical sampling, (that is, choosing documents via a random process so that every member of the population has a known, nonzero chance of being selected). The specific statistical method chosen was stratified random sampling—a technique that entails separating the population elements into non-overlapping groups, called strata, and then randomly sampling from each stratum. However, OIG encountered impediments that hampered its efforts to select documents via statistical sampling.

First, the Department's universe of original and derivative classified documents reported to ISOO was significantly overstated. Second, A/GIS/IPS and INR officials did not provide

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<sup>6</sup> A universe (population) is composed of the individual elements from which the sample will be drawn. There sometimes are two universes: the target universe (the exact group about which information is desired) and the working universe (which does not always match the target universe).

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some randomly selected documents to OIG, which hampered efforts to test classified documents via statistical sampling.

In addition, because classified documents were dispersed at various locations, the universe of interest was not available at one central site. Consequently, OIG had to use several sampling frames<sup>7</sup> to achieve the sampling objective. More specifically, to effect sample selection, OIG obtained, from A/GIS/IPS, one frame for the SAS universe; one frame from INR; and one frame from DS. However, detail provided from these frames varied greatly. A/GIS/IPS's SAS frame provided the most detail. Specifically, it identified the documents by the most attributes (that is, Confidential vs. Secret; original vs. derivative; and D.C. metropolitan area vs. all other areas, including overseas posts), which enabled OIG to make more informed sample selections and also facilitated data analysis.

Information obtained from the three sampling frames that provided the sampling units for the universe of classified documents is presented in Tables 1, 2, and 3, which include universe and sample sizes as well as other pertinent information.

The sampling frame for SAS identified the documents by various attributes (for example, Confidential vs. Secret and original vs. derivative), as presented in Table 1. Consequently, OIG was able to select a total sample of 20 documents with diverse attributes, such as classification level (Confidential or Secret) and classification authority (original or derivative). However, A/GIS/IPS officials did not provide five randomly selected documents to OIG, thereby hampering efforts to effect document selection via statistical sampling.

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<sup>7</sup> A sampling frame is a database (or other collection of data) containing the totality of the sampling units (the universe) from which the sample will be selected.



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**Table 1. State Archive System Universe and Sample of Confidential and Secret Documents**

Strata (Number)	Classification	From	Sample*	Universe
#1	Confidential	SECSTATE WASHDC, Not Derived from	2	2,883
#2	Confidential	SECSTATE WASHDC, Derived from	2	850
#3	Secret	SECSTATE WASHDC, Not Derived from	3	5,315
#4	Secret	SECSTATE WASHDC, Derived from	3	18,969
#5	Confidential	Not SECSTATE WASHDC, Not Derived from	3	24,125
#6	Confidential	Not SECSTATE WASHDC, Derived from	3	5,210
#7	Secret	Not SECSTATE WASHDC, Not Derived from	2	12,704
#8	Secret	Not SECSTATE WASHDC, Derived from	2	3,130
<b>Totals</b>			<b>20</b>	<b>73,186</b>

Source: Prepared by OIG based on the results of its sample.

Note: The asterisk (\*) denotes that the sample was not random, despite OIG's efforts, because A/GIS/IPS officials did not provide all the randomly selected documents, thereby requiring substitutions.

While testing the sample of 20 SAS documents for classification discrepancies, OIG determined that some discrepancies were caused by outdated SMART software (version 4.2). Consequently, the same sample was also used to determine any discrepancies that the outdated software might have caused.

INR provided a frame that differentiated the documents only by classification level (for example, Secret/SCI vs. Top Secret/SCI), as presented in Table 2. OIG sampled 12 documents from the INR universe.

**Table 2. Universe and Sample for Bureau of Intelligence and Research Production Repository**

Strata (Number)	Classification	From	Sample	Universe
#1	Secret (SCI)	(Assessments/ Comments)	6	858
#2	Top Secret (SCI)	(Assessments/ Comments)	6	294
<b>Totals</b>			<b>12</b>	<b>1,152</b>

Source: Prepared by OIG based on the results of its sample.

DS had an inventory of all the Top Secret collateral documents in the Department, as presented in Table 3. However, these classified documents were not all Department-generated

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classified documents. The majority of these documents were created and given to the Department by outside agencies. Originally, OIG wanted to obtain a sample from each bureau that had a Top Secret collateral document. However, during the fieldwork, OIG ascertained that some of the documents OIG had randomly selected for testing were not created by the Department and therefore had to be excluded from the sample. Specifically, OIG selected seven documents from the Top Secret collateral inventory list but was able to sample and test only two documents.

**Table 3. Universe and Sample for Bureau of Diplomatic Security Inventory of Top Secret Collateral Documents from Various Bureaus**

<b>Bureau</b>	<b>Strata (Number)</b>	<b>Classification</b>	<b>From</b>	<b>Sample</b>	<b>Universe*</b>
S/ES-S	#1	Top Secret	2011	0	60
L/FO	#2	Top Secret	2011	0	3
S/ES-O	#3	Top Secret	2011	0	81
L/PM	#4	Top Secret	2011	1	23
PA/HO	#5	Top Secret	2011	0	2
DRL	#6	Top Secret	2011	0	4
INR	#7	Top Secret	2011	1	3
<b>Totals</b>				<b>2</b>	<b>176</b>

Source: Prepared by OIG based on the results of its sample.

Note: The asterisk (\*) denotes that the total number of classified documents in this universe is overstated because the majority of these documents were created by outside agencies and not the Department.

### **Detailed Results**

Testing results of A/GIS/IPS's SAS database for user compliance with marking requirements from a sample of 20 documents classified at the Confidential and Secret levels are presented in Table 4. Of the 20 documents evaluated, OIG noted a total of 35 discrepancies because some of the documents evaluated were missing more than one of the five required marking elements described in the section "Requirements of Executive Order 13526" in Finding A of the report.

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**Table 4. State Archive System Sample of Confidential and Secret Documents**

	Sample Size	Discrepancies Identified					
		Marking	Derived From	Classified By	Duration	Portion Markings	Total Discrepancies
Confidential – SECSTATE WASHDC, Not Derived from	2	0	0	0	0	2	2
Confidential – SECSTATE WASHDC, Derived from	2	0	1	1	0	2	4
Secret – SECSTATE WASHDC, Not Derived from	3	1	0	0	0	2	3
Secret – SECSTATE WASHDC, Derived from	3	0	3	3	0	3	9
Confidential – Not SECSTATE WASHDC, Not Derived from	3	0	0	0	0	3	3
Confidential – Not SECSTATE WASHDC, Derived from	3	0	1	2	0	3	6
Secret – Not SECSTATE WASHDC, Not Derived from	2	0	0	0	0	2	2
Secret – Not SECSTATE WASHDC, Derived from	2	0	2	2	0	2	6
<b>Total</b>	<b>20</b>	<b>1</b>	<b>7</b>	<b>8</b>	<b>0</b>	<b>19</b>	<b>35</b>

Source: Prepared by OIG based on the results of its sample.

Testing results of INR's production database for user compliance with marking requirements from a sample of 12 documents classified at the Secret/SCI and Top Secret/SCI levels are presented in Table 5. Of the 12 documents evaluated, OIG noted a total of 13 discrepancies because one of the documents evaluated was missing more than one of the five required marking elements described in the section "Requirements of Executive Order 13526" in Finding A of the report.

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**Table 5. Bureau of Intelligence and Research Production Repository**

	Sample Size	Discrepancies Identified					
		Marking	Derived From	Classified By	Duration	Portion Markings	Total Discrepancies
Secret/SCI (Assessments/Comments)	6	0	0	6	0	0	6
Top Secret/SCI (Assessments/Comments)	6	0	0	6	0	1	7
<b>Total</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>1</b>	<b>13</b>

Source: Prepared by OIG based on the results of its sample.

Testing results for user compliance with marking requirements from a sample of two documents classified at the Top Secret collateral level are presented in Table 6. Of the two documents evaluated, OIG noted a total of six discrepancies because one of the documents evaluated was missing more than one of the five required marking elements described in the section “Requirements of Executive Order 13526” in Finding A of the report.

**Table 6. Bureau of Diplomatic Security Inventory of Top Secret Collateral Documents From Various Bureaus**

Bureau	Sample Size	Discrepancies Identified					
		Marking	Derived From	Classified By	Duration	Portion Markings	Total Discrepancies
S/ES-S	0	-	-	-	-	-	-
L/FO	0	-	-	-	-	-	-
S/ES-O	0	-	-	-	-	-	-
L/PM	1	1	1	1	1	1	5
PA/HO	0	-	-	-	-	-	-
DRL	0	-	-	-	-	-	-
INR	1	0	0	0	0	1	1
<b>Total</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>6</b>

Source: Prepared by OIG based on the results of its sample.

OIG used the same sample of 20 documents employed to assess user compliance with marking requirements for A/GIS/IPS’s SAS database. (See Table 4 in this appendix.) In this instance, OIG tested this sample to determine whether using outdated software, SMART-C 4.2, rather than the newer version, SMART-C 5.5, contributed to the marking deficiencies. Specifically, OIG found nine discrepancies related to the use of the outdated version of software, SMART-C 4.2, as presented in Table 7.

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**Table 7. SMART-C Related Errors (Confidential and Secret)**

	Sample Size	Discrepancies Identified					
		Marking	Derived From	Classified By	Duration	Portion Markings	Total Discrepancies
Confidential – SECSTATE WASHDC, Not Derived from	2	0	0	0	0	0	0
Confidential – SECSTATE WASHDC, Derived from	2	0	0	1	0	0	1
Secret – SECSTATE WASHDC, Not Derived from	3	0	0	0	0	0	0
Secret – SECSTATE WASHDC, Derived from	3	0	0	3	0	0	3
Confidential – Not SECSTATE WASHDC, Not Derived from	3	0	0	0	0	0	0
Confidential – Not SECSTATE WASHDC, Derived from	3	0	1	1	0	0	2
Secret – Not SECSTATE WASHDC, Not Derived from	2	0	0	0	0	0	0
Secret – Not SECSTATE WASHDC, Derived from	2	0	1	2	0	0	3
<b>Total</b>	<b>20</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>9</b>

Source: Prepared by OIG based on the results of its sample.

**Appendix B**



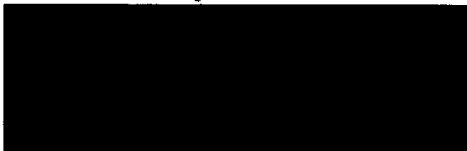
United States Department of State

*Washington, D.C. 20520*

SBU

February 7, 2013

Mrs. Evelyn R. Klemstine  
Assistant Inspector General for Audits  
Office of the Inspector General  
U.S. Department of State



Dear Mrs. Klemstine:

The Bureau of Administration appreciates the opportunity to review and comment on the draft report of the Office of Inspector General, Office of Audits' Evaluation of the Department of State Implementation of Executive Order 13526. Please find our comments on the draft report and cited documents attached. We also appreciate the extension of time to prepare and provide these cleared comments to you. If there are any questions or you need additional information, please contact me at (202) 632-████ or █████@state.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sheryl L. Walter".

Sheryl L. Walter  
Director,  
Office of Information Programs  
and Services

Attachments:  
As stated.

**Bureau of Administration Comments to Draft Audit Report**  
**“Evaluation of Department of State Implementation of**  
**Executive Order 13526, Classified National Security Information”**  
**February 5, 2013**

The Bureau of Administration (A) appreciates the opportunity to review and comment on the draft report (draft report) of the Office of Inspector General (OIG), Office of Audits’ “Evaluation of the Department of State Implementation of Executive Order (E.O.) 13526, Classified National Security Information.”

At the outset, we respectfully request that OIG reconsider the extent to which this audit accurately captures the purposes of the audit requirement of the Reducing Over-Classification Act<sup>1</sup> (the Act). We believe a revised interpretive framing of the audit requirement consistent with the Act’s legislative history, spirit and intent would, in fact, lead to a more appropriate (and positive) audit assessment of the Department’s overall performance, in contrast to what appears in the draft audit report to be a misinterpretation of that requirement that has led to an unduly negative audit result. We are happy to continue to work with the OIG audit team to align the final report more closely to what we believe the Act and the underlying Executive Order 13526, which governs the national security information classification process, intend and require.

As noted in the report, the statutory requirement on which this audit is based is found in Section 6(b)(1) of the Act, which calls on the Inspector General:

“(A) To assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and

(B) To identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component.”

As is clear from the title of the statute and the audit standards noted above, the overarching purpose of the Reducing Over-Classification Act is to assess and ultimately prevent over-classification of information by the government. In this

<sup>1</sup> Pub. L. No. 111-258, 124 Stat. 2644 (2010)

context, the reference in Section 6(b)(1)(B) to “persistent misclassification” is primarily intended to refer to the need to prevent government agencies from classifying information at the incorrect classification level or classify information for the wrong reasons, with a particular focus on preventing agencies from over-classifying information.

Section 1.6 of Executive Order 13526 (E.O. 13526) “Identification and Markings” describes the markings that should be applied to a document when it is classified. The first of these is classification level; they also include classification authority, reason, and declassification date as well as the requirement to indicate what classification level applies to each portion of a document. However, subsection 1.6(f) provides that “[i]nformation assigned a level of classification under this or predecessor orders shall be considered as classified at that level despite the omission of other required markings.” It goes on to say that the missing markings should be applied when the information is used derivatively or reviewed for declassification. Thus, both the statutory and Executive Order frameworks appear to draw a very clear distinction between “misclassification” and “mismarking,” the former referring to the need to ensure that information is classified at an appropriate and correct level and the latter referring to the need to include certain technical markings on a document to reflect the authority for and the duration of that classification level.

In the draft audit report, the OIG team seems to have conflated these two principles, and the auditors have equated a technical deficiency with particular markings on documents with “misclassification.” More specifically, the audit team appears to have relied on a finding that even a single technical deficiency in the marking of a particular document resulted in that document as a whole being “misclassified,” and on this basis draws the broader conclusion that the Department has “not effectively followed and administered proper classification policies, procedures, rules, and regulations prescribed by Executive Order 13526.”

We respectfully suggest that the OIG audit, taken at face value, establishes an opposite conclusion: that the Department *has* effectively followed and administered proper classification policies, procedures, rules, and regulations prescribed by Executive Order 13526 with respect to those documents classified by Department officials under the authority of the Department of State Classification



Guide (a fundamental document that the draft audit report neither references nor discusses). As elaborated below, fewer than half of the 34 documents reviewed by the audit team fall into this category. We believe that the audit should be recast to communicate this more appropriate assessment.

**Our review of the 20 audit sample documents for which we were able to obtain copies indicates that all of the documents classified by Department officials were classified by an appropriate official at the correct level and for the correct reasons; in that sense all of them are properly classified and *not* “misclassified.”** Indeed, the audit itself concludes that only one of the 34 sample documents was “over-classified”.

Further, our review of audit sample documents indicates that, while there may be one or two technically deficient marks on a number of the State-classified documents, the vast majority of marks on those documents are in fact correctly done and the most typical marking error occurs where the drafting officer has failed to correctly record a portion mark – in some cases failing only to portion mark the subject line. Of 13 documents drawn from the SAS database and clearly classified by State Department personnel with the expectation that they conform to the standards set forth in the Department of State Classification Guide, the only discernible deficiency in seven of the documents was a missing portion marking on the subject line. Similarly, two more documents omitted a single additional portion mark beyond the subject line while the remaining documents showed similar minor technical marking omissions. In all of these cases the classification level was appropriate. For these reasons, **contrary to the conclusion of the audit, we believe that this statistical sampling of the State group on its face establishes a 100 percent grade on proper classification and a better than 90 percent grade on markings.** We repeat that such technical marking deficiencies are anticipated by E.O. 13526 and implementing regulations such as 32 CFR 2001, which state that such deficiencies will not affect the classification of a document.

In addition to this general interpretive concern, we are also concerned that this report does not do enough to present the significant work that the Department has done in implementing a “fundamental guidance review” as required by E.O. 13526 and to publish in May 2011 a new Department of State Classification Guide reflecting the results of that review. We welcome the acknowledgement, in a

single sentence in the Executive Summary and in a single sentence at the beginning of the “Evaluation Results” section on page 5, that “the Department had generally adopted the classification policies, procedures, rules and regulations prescribed by 13526.” But these single sentences, without any description of the significant time and effort required to successfully reflect these processes in our guidance, and without acknowledging that the State Department was one of the first, and remains one of the few, agencies to appropriately implement these requirements, gives short shrift to our efforts and **creates an overall impression that the Department is failing where it is in fact succeeding.** The report should at a minimum describe our efforts; we believe that any review of these efforts would also show that we deserve high marks for our work.

For this reason, we request that a revised audit report include information on page 4, following the section on “The Implementing Directive,” that adequately profiles the Department’s efforts to appropriately conform its substantive classification guidance consistent with Executive Order 13526, as this analysis – and the Department’s signature successes in this regard – directly bear on the audit requirements contained in the statute.

Finally, we question the validity of a statistical analysis that uses some 34 documents to establish trends and form the basis of findings regarding a statistical pool of nearly 400,000 cables created by State Department employees in 2011, only some 73,000 of which were classified documents. **In other words, 82 percent of the cables created in 2011 by State Department employees were at the unclassified level to start with; only 18 percent of the universe of cables were classified at all.** While we are not expert in audit methodology, and ultimately will and must defer to OIG, it is unclear that definitive broad-ranging conclusions can be drawn regarding 73,000 documents based on such a limited sampling.

In this regard, we note that we have excluded from our consideration the TOP SECRET and/or SCI documents located in INR. The classification and markings of these documents are dictated by rules and regulations drafted and controlled by the Intelligence Community and not, as noted above, by the Department’s classification guide. We believe that it is incorrect to include these in a sampling

of documents used to evaluate the classification practices of the Department of State.

We also question whether it is appropriate to include any TOP SECRET documents in the sampling since they constitute such a miniscule fraction of the documents created by the Department. In fact, **the Department only transmitted 76 Top Secret cables in 2011**. Moreover, of the 20 documents we reviewed from the audit sample that were not TOP SECRET and/or SCI, we note that seven were classified by non-State Department personnel (three were repeats of CIA reports, two drafted by the Nuclear Risk Reduction Center (whose cables seem to follow a particular and unique format different from other State cables), one by a military officer in Baghdad and one by a Department office that uses another agency's classification guide). This resulted in a skewed percentage when compared to the number of documents drafted and classified by State personnel. We request that OIG reconsider this methodological approach.

Finally, before addressing individual recommendations, the A Bureau also generally notes that the draft audit report does not discuss or cite to the existing division of responsibilities between A and Diplomatic Security (DS) for compliance with executive orders governing classified national security information. A Delegation of Responsibilities Memorandum dated July 12, 1996, issued with regard to the predecessor Executive Order governing classified national security information (E. O. 12958), outlines how these responsibilities are to be shared in the Department. This Delegation Memorandum (attached) designated the Under Secretary for Management as the Department's Senior Agency Official for compliance with Executive Order 12958, the Assistant Secretary for A as responsible for the classification management provisions of the Order, and the Assistant Secretary for Diplomatic Security (DS) to be responsible for implementing the safeguarding provisions of the Order. The A and DS Bureaus continue their respective work based on the delegated roles set out in this memorandum and our comments on the draft recommendations here are made taking that delegation memorandum into account.

**Specific Additional Suggested Factual Corrections to the Draft Report:**

- 1) Pages 7 and 10 of the draft report discuss the June 28, 2010, ALDAC that was sent to all diplomatic and consular posts notifying them of Executive Order 13526's changes to the national security classification information requirements. We note that in addition to this cable, a Department Notice was issued on July 1, 2010 in which the contents of the ALDAC were disseminated to State Department employees. Through both of these vehicles, Department employees were put on notice about E.O. 13526's obligatory training requirement. While it is true that neither of the "headings" on these notices identify the training as obligatory, the ALDAC and Department Notice both cite the training as obligatory. The following is text from the ALDAC and DN: "The course is obligatory and all original and derivative classifiers should take the course as soon as they reasonably can." In addition, an ALDAC (12STATE090900) and Department Notice were issued in September 2012 (Required Training for Classifiers of National Security Information - [http://mmsweb.a.state.gov/asp/notices/dn\\_temp.asp?Notice\\_Id=17634](http://mmsweb.a.state.gov/asp/notices/dn_temp.asp?Notice_Id=17634) ); the title of these ALDACs and DNs include the fact the training is required. Thus, all Department employees were effectively and clearly notified about their obligation to comply with this training requirement.
- 2) On pages 8 through 11, the draft report discusses the sampling methodology used by the OIG audit team, including that 34 classified cables drafted at some point during 2011 were used as the sample and that 13 of the individuals who drafted the documents were interviewed. The report states on page 9 that none of the 13 reported having taken the online course. We note, as the report acknowledges, that the online course was not available until August 2011. We also note that the draft audit report does not say on what date the sample documents were drafted in 2011, but it is likely that at least some of the documents in the sample were created before August of that year. If it was not possible for at least some of the 13 interviewed individuals to have taken the training before they created those classified documents it cannot be assumed that a lack of online training was the reason for any errors made in applying classification markings to the documents in the sample. Moreover, the draft report does note that 9 of the 13 had received live training on

classification and there is no indication in the report that the content of the live training was incorrect or insufficient.

- 3) Page 11 of the draft report states that “the last update to Volume 13 of the FAM, “Training and Professional Development,” completed in December 2010, did not include PK323 as an agency mandated course”. Because development of PK323 was not completed until August of the next year, as the report recognizes, this course did not exist in December 2010 and thus could not have been included in that update to Volume 13.
- 4) On page 11 of the Draft Report, we suggest that the following sentence be revised for factual accuracy:

Further, the last update to Volume 13 of the FAM, “Training and Professional Development,” completed in December 2010, did not include PK323 as an agency mandated course; ~~even though it is the Department’s practice to list all mandated training courses in Volume 13 of the FAM~~ because development of PK323 was not completed until August 2011.

- 5) On page 13 of the Draft Report, we suggest that the following sentence be revised for factual accuracy:

Specifically, the SMART-C 4.2 application allows only original classification authorities to enter their names and positions; the application ~~does not have fields for the derivative classifiers to enter their names and positions.~~

- 6) On page 14 of the Draft Report, we suggest that the following paragraph be revised for factual accuracy:

The SMART-C related discrepancies occurred because the SMART-C 4.2 version does not allow all classifiers ~~and drafters~~ to properly mark classified emails. For example, when using the SMART-C 4.2 application, derivative classifiers were not able to enter their names

and titles because the fields were only accessible to classifiers with original classification authority.

- 7) On page 15 of the Draft Report, we suggest that the following sentence be revised for factual accuracy.

The overstatement was then provided to A/GIS/IPS, which then consulted with INR to verify the data submitted. After several discussions with INR to attempt to verify the data, A/GIS/IPS subsequently reported the data to ISOO. A/GIS/IPS discussed this data with ISOO and together they determined how best to report the data for FY 2011.

- 8) On page 16 of the Draft Report, we suggest that the following sentence be revised for factual accuracy.

Further, because A/GIS/IPS did not receive reports of the creation of any collateral Top Secret documents from the Department's Top Secret Control Officer, the sample only included classified documents available to A/GIS/IPS in the SAS repository, which A/GIS/IPS maintains.

- 9) Pages 23 and 24 of the draft report indicate that A/GIS/IPS refused to provide randomly selected documents to the OIG. However, on April 15, 2012, A/GIS/IPS provided to the OIG lists of all cables in each of the eight strata requested by the OIG. The OIG never requested any of these documents from the designated points of contact within A/GIS/IPS.

**Responses to Recommendations:**

**Recommendation 1. OIG recommends that the Bureau of Administration add the course *Classified and Sensitive But Unclassified Information: Identifying and Marking* (PK323) to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.**

The Foreign Service Institute (FSI) should be is the lead action office for this recommendation. We understand that FSI, in consultation with the A Bureau, has initiated clearance of a new subchapter in Volume 13 of the *Foreign Affairs Manual* (FAM) section 300 covering mandatory training (13 FAM 370) "Mandatory Training for Classifiers of National Security Information."

**Recommendation 2. OIG recommends that the Bureau of Administration amend the *Foreign Affairs Manual* to align with the language in Executive Order 13526 that states that those who fail to receive classification training "shall" have their classification authority suspended.**

The Bureau of Diplomatic Security (DS) should be the lead action office for this recommendation. Suspension of classification authority is a decision that can only be made at the appropriate levels within the Department. The A Bureau does not have the authority to itself suspend classification authority of Departmental employees. The A Bureau will coordinate with DS and all appropriate Departmental offices to align language in the *Foreign Affairs Manual* as needed.

**Recommendation 3. OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, immediately establish and implement a process to identify Department of State classifiers who have not complied with the classification training requirement and to take the actions required by the amended *Foreign Affairs Manual*.**

FSI should be the lead action offices for this recommendation. The A Bureau will coordinate with FSI and other appropriate Departmental offices to develop a strategy for tracking classification training completion.

**Recommendation 4. OIG recommends that the Bureau of Administration, in coordination with the Bureau of Information Resource Management, replace the Classified State Messaging Archive and Retrieval Toolset (SMART-C) 4.2 application with SMART-C 5.5 for all users of the classified email network to promote compliance with Executive Order 13526.**

The Bureau of Information Resource Management (IRM) should be the lead action office for this recommendation. We understand that IRM is currently deploying SMART-C 5.5. The A Bureau will continue to collaborate with IRM to ensure that SMART-C 5.5 meets classification marking requirements.

**Recommendation 5. OIG recommends that the Bureau of Administration, in coordination with the Bureau of Intelligence and Research and the Bureau of Diplomatic Security, develop and implement a sampling methodology that attains a representative sample of all classified documents maintained within the Department of State for its annual self-inspection of the classification program.**

The Bureau of Intelligence and Research (INR) and the Bureau of Diplomatic Security (DS) should be the lead action offices for this recommendation. The A Bureau is committed to ensuring the validity of all data provided to it by Departmental bureaus and offices in preparing the annual self-inspection report. However, the problems the OIG identified with inaccurate data on Top Secret classification actions involve issues that are wholly outside of A/GIS/IPS's control, including the inability to directly access Top Secret documents controlled or maintained by other Department bureaus and the inability to independently verify data provided by INR.

**Recommendation 6. OIG recommends that the Bureau of Administration ensure that all Department of State bureaus that contribute data reported on Standard Form 311 receive and comply with guidance from the National Archives and Records Administration, Information Security Oversight Office, that pertains to validating that the data submitted to the National Archives and Records Administration is accurate.**

The Bureau of Administration concurs in part with this recommendation. The A Bureau will continue to provide all Department of State bureaus that contribute data reported on Standard Form 311 with the appropriate guidance from the National Archives and Records Administration's Information Security Oversight Office. Further, we will collaborate with appropriate Departmental offices to develop bureau-specific guidance for



compiling the data required to be reported on this form. However, a senior official in each Department bureau or office that contributes data to the Department's Standard Form 311 should be responsible for ensuring that their bureau or office, which maintains that data, validate it before it is provided to A Bureau.

Again, we greatly appreciate the continued cooperation of the OIG and, in particular, the audit inspection team, in the course of this audit and look forward to continuing to work closely with the OIG on this and other matters. We also greatly appreciate the consideration shown us in the process of providing our written comments to the draft report. If there are any questions or additional information needed on this matter, please do not hesitate to contact the point of contact in the A Bureau's Office of Information Programs and Services (A/GIS/IPS), Sheryl L. Walter, Director, Office of Information Programs and Services. Ms. Walter may be reached at 202-632-██████ her email address is ██████@state.gov.

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United States Department of State

Washington, D. C. 20520

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March 29, 1996

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ACTION MEMORANDUM <sup>4/1</sup>  
S/S <sup>ML</sup>

UNCLASSIFIED



TO: The Acting Secretary

THROUGH: M - Richard M. Moose <sup>DM</sup>

FROM: DS - Eric Boswell <sup>B</sup>  
A - Patrick F. Kennedy <sup>PK</sup>

SUBJECT: Designation of Senior Agency Official and  
Delegation of Responsibilities under Executive  
Order 12958

ISSUES FOR DECISION

Whether to designate the Under Secretary for Management as the senior agency official under Executive Order 12958, "Classified National Security Information," and delegate responsibility for classification management to the Assistant Secretary for Administration and responsibility for safeguarding to the Assistant Secretary for Diplomatic Security.

ESSENTIAL FACTORS

Executive Order 12958 (Tab B) became effective on October 14, 1995, replacing Executive Order 12356. Section 5.6 of E.O. 12958 requires heads of agencies originating or handling classified information to designate a "senior agency official" to direct and administer the agency's program under which information is classified, safeguarded and declassified.

Designation of a senior agency official at State has usually reflected the objectives of the successive executive orders. E.O. 12958 aims to reduce significantly the amount of information that is classified and to speed declassification.

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The Order is also intended to promote uniform standards for classification and declassification and their application within federal agencies. The Director of the Information Security Oversight Office, which is charged with monitoring compliance with the Order, favors the designation of a single official with responsibility for classification, declassification and safeguarding classified information as the senior agency official. For the State Department, that would be the Under Secretary for Management since he oversees both A and DS.

Implementation of E.O. 12958 will take place as part of the transition to a new information environment at State which includes technical upgrading and modernization of information systems technology, implementation of information life cycle management and integrated information resources planning procedures.

While the last Order on classified national security information emphasized the protection of national security records, E.O. 12958 focuses on the life cycle management of classified information. An overview of Parts 1-3 of E.O. 12958 demonstrates the logic of placing responsibility for management of the Department's classified information program with the A Bureau in its capacity as information systems and information life cycle manager. At the same time, we believe DS should retain its traditional responsibility for safeguarding and information security (Part 4 of E.O. 12958).

The Order also allows for the designation of a separate agency official to oversee special access programs ("SAPs") created by the Department (E.O. section 5.6(c)(1)). Because all SAPs created by the Department are within the purview of either A or DS, no additional designation would be needed. (Under other directives, INR would remain responsible for SAPs established by the intelligence community and other agencies.) After the Under Secretary is designated as the senior agency official, he would in turn delegate his responsibility with respect to the Department's SAPs to DS and A, as appropriate.

We believe the proposed delegations of implementation responsibility will best achieve the goals of the President's Order while bringing the management of national security information at State into the new information age.

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**RECOMMENDATIONS**

That you designate the Under Secretary for Management as the senior agency official for E.O. 12958, and approve the further delegation of responsibility for implementing the classification management provisions of E.O. 12958 to the Assistant Secretary for Administration and responsibility for implementing the safeguarding provisions of E.O. 12958 to the Assistant Secretary for Diplomatic Security.

Approve

4/2/96 *ST*

Disapprove

\_\_\_\_\_

If you agree with the Recommendation, that you sign the letter to the Director of the Information Security Oversight Office attached at Tab A.

Approve

4/2/96 *ST*

Disapprove

\_\_\_\_\_

**Attachments:**

TAB A - Proposed Letter to ISOO.

TAB B - E.O. 12958 - Classified National Security Information.

NOTE: Attachments not included by Office of Inspector General

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**Appendix C**



**United States Department of State**

*Washington, D.C. 20520*

February 5, 2013

(UNCLASSIFIED when separated from attachment)

**INFORMATION MEMO TO OIG -- DEPUTY INSPECTOR GENERAL  
HAROLD W. GEISEL**

**FROM:** DS/MGT/PPD -- James Weston *JW*

**SUBJECT:** DS Comments -- Draft Report Evaluation of Department of State  
Implementation of Executive Order 13526, Classified National  
Security Information

Attached are the Bureau of Diplomatic Security's comments to the subject  
draft report.

Attachment:

As stated

(UNCLASSIFIED when separated from attachment)

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**DS Comments on the Draft Report - Evaluation of Department of State  
Implementation of Executive Order 13526,  
Classified National Security Information**

1. (U) **OIG Report:** Paragraph 2 under the heading Document Markings:  
(Page 11)

*"OIG reviewed 34 documents provided by A/GIS/IPS, INR, and DS and found that each of these documents had been completed incorrectly."*

(U) **DS Comment (02/01/2013):** Overall DS concurs with the draft language but in many places (like the two mentioned herein) this draft incorrectly characterizes documents identified by DS from Top Secret (TS) inventories (submitted by Top Secret Control Officers (TSCOs) from other bureaus) as DS documents. DS did not provide any TS documents; rather, we provided an inventory and points of contact for OIG to use to find these documents.

Please revise this entry to read:

*"OIG reviewed 34 documents provided by A/GIS/IPS and INR."*

2. (U) **OIG Report:** Paragraph 2 under the heading Document Markings:  
(Page 11)

*"Furthermore, a DS Top Secret draft memorandum evaluated lacked all five required marking elements."*

(U) **DS Comment (02/01/2013):** Overall DS concurs with the draft language but in many places this draft incorrectly characterizes documents identified by DS from TS inventories (submitted by Top Secret Control Officers (TSCOs) from other bureaus) as DS documents. DS did not provide any TS documents; rather, we provided an inventory and points of contact for OIG to use to find these documents. Please revise the entry to read:

*"Furthermore, an L/PM Top Secret draft memorandum evaluated lacked all five required marking elements."*

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(UNCLASSIFIED when separated from attachment)

INFORMATION MEMO TO OIG – DEPUTY INSPECTOR GENERAL  
HAROLD W. GEISEL

FROM: DS/MGT/PPD – James Weston

SUBJECT: DS Rebuttal Comments to A Bureau's Comments – Draft Report  
Evaluation of Department of State Implementation of Executive Order  
13526, Classified National Security Information

Attached are the Bureau of Diplomatic Security's rebuttal to the Bureau of  
Administration's comments to the subject draft report.

Attachment:  
As stated.

(UNCLASSIFIED when separated from attachment)

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**DS Rebuttal Comments on A Bureau Comments to the Draft Report -  
Evaluation of Department of State Implementation of Executive Order 13526,  
Classified National Security Information**

1. **Recommendation 2.** *OIG recommends that the Bureau of Administration amend the Foreign Affairs Manual to align with the language in Executive Order 13526 that states that those who fail to receive classification training "shall" have their classification authority suspended. (Page 9)*

**A/GIS/IPS Response:** *The Bureau of Diplomatic Security (DS) should be the lead action office for this recommendation. Suspension of classification authority is a decision that can only be made at the appropriate levels within the Department. The A Bureau does not have the authority to suspend classification authority of Departmental employees. The A Bureau will coordinate with DS and all appropriate Departmental offices to align language in the Foreign Affairs Manual as needed.*

**DS Rebuttal Comments (02/08/2013):** DS non-concurs with the A/GIS/IPS response (see Tab 1). A/GIS/IPS incorrectly asserts that DS should be the lead action office for this recommendation. As referenced by A/GIS/IPS on page 5 of the A/GIS/IPS response, the Under Secretary for Management is the Department's Senior Agency Official for compliance with Executive Order 12958, the Assistant Secretary for A is responsible for classification management provisions of the Order, and the Assistant Secretary for Diplomatic Security is responsible for implementing the safeguarding provisions of the Order. The OIG draft recommendation accurately captures that division of labor. Although the Under Secretary for Management would have the ultimate authority for granting original classification authority granting and suspension of classification authority is clearly a function of classification management not of safeguarding. Suspending classification authority is not the same as suspending a security clearance which clearly is a DS function.

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2. **Recommendation 5:** *OIG recommends that the Bureau of Administration, in coordination with the Bureau of Intelligence and Research and the Bureau of Diplomatic Security, develop and implement a sampling methodology that attains a representative sample of all classified documents maintained within the Department of State for its annual self-inspection of the classification program. (Page 9)*

**A/GIS/IPS Response:** *The Bureau of Intelligence and Research (INR) and the Bureau of Diplomatic Security (DS) should be the lead action offices for this recommendation. The A Bureau is committed to ensuring the validity of all data provided to it by Departmental bureaus and offices in preparing the annual self-inspection report. However, the problems the OIG identified with inaccurate data on Top Secret classification actions involve issues that are wholly outside of A/GIS/IPS's control, including the inability to directly access Top Secret documents controlled or maintained by other Department bureaus and the inability to independently verify data provided by INR.*

**DS Rebuttal Comments (02/08/2013):** DS non-concurs with the A/GIS/IPS response (see Tab 1). A/GIS/IPS incorrectly asserts that INR and DS should be the lead action offices for this recommendation. Given the Under Secretary for Management has overall authority for ensuring compliance with classification management and marking requirements and A/GIS/IPS performs as his implementing agent, A Bureau should lead this effort. As recommended by the OIG, they should do so in collaboration with INR and DS. DS can facilitate access to any collateral Top Secret documents we possess.

**Attachment:** Tab -1 - A Bureau Comments - EO 13526\_Audit\_IPS  
Response\_20130204\_Final.pdf

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**Appendix D**



**United States Department of State**

*Foreign Service Institute*

*George P. Shultz National Foreign Affairs Training Center  
Washington, D.C. 20522-4201*

**January 7, 2013**

**UNCLASSIFIED**  
**MEMORANDUM**

**TO:**           OIG – Harold W. Geisel

**FROM:**       FSI/EX – Catherine J. Russell

**SUBJECT:**   Draft Report on Evaluation of Department of State  
Implementation of Executive Order 13526, Classified National  
Security Information

**REF:**        OIG Memorandum dated December 17, 2012, same subject

As a participating entity for Recommendation 1 in the **OIG Draft Report on Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information**, the Foreign Service Institute (FSI) offers the following response.

**Recommendation 1:** **OIG recommends that the Bureau of Administration add the course Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323) to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.**

FSI, in consultation with A/GIS/IPS/PP initiated a new subchapter in 13 FAM 300 covering mandatory training (13 FAM 370) “Mandatory Training for Classifiers of National Security Information” which was put into the EFAM clearance process 11/13/2012 with a deadline of 12/13/2012, and is currently still pending completion of review from mandatory clearers.

cc: A/EX/MGT – Joseph McGuire

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**From:** SMART Core  
**Sent:** Thursday, February 07, 2013 9:15 AM  
**To:** Hetland, Arline R  
**Cc:** McGuire, Joseph H; Russell, Catherine J; Oshima, Wayne A  
**Subject:** FSI's Follow up Response to A/GIS's Proposed change re Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information

**UNCLASSIFIED**

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<b>MRN:</b>	13 MDA 3856
<b>Date/DTG:</b>	Feb 07, 2013 / 071414Z FEB 13
<b>From:</b>	Hetland, Arline R
<b>Action:</b>	Meade, Regina (OIG) <i>ROUTINE</i> , Irving, William S (OIG) <i>ROUTINE</i> , Brown, Norman P (OIG) <i>ROUTINE</i> , Klemstine, Evelyn (OIG) <i>ROUTINE</i>
<b>For Addressee(s) Only</b>	
<b>E.O.:</b>	13526
<b>TAGS:</b>	ASIG, AFSI
<b>Subject:</b>	FSI's Follow up Response to A/GIS's Proposed change re Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information

Below are FSI's responses to A/GIS's proposed change in action to Recommendations 1 and 3:

**Recommendation 1.** OIG recommends that the Bureau of Administration add the course **Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323)** to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.

The Foreign Service Institute (FSI) should be is the lead action office for this recommendation. We understand that FSI, in consultation with the A Bureau, has initiated clearance of a new subchapter in Volume 13 of the *Foreign Affairs Manual* (FAM) section 300 covering mandatory training (13 FAM 370) "Mandatory Training for Classifiers of National Security Information."

FSI disagrees with the proposed change. It is our opinion that the recommendation be changed to the following as A Bureau should remain the program office.

**Recommendation 1.** OIG recommends that the Bureau of Administration, working with the Foreign Service Institute, ensures that **add the course Classified and Sensitive But Unclassified Information: Identifying and Marking (PK323)** is added to the mandatory training list in Volume 13 of the *Foreign Affairs Manual* to promote awareness of the training requirement.

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**Recommendation 3.** OIG recommends that the Bureau of Administration, in coordination with the Foreign Service Institute, immediately establish and implement a process to identify Department of State classifiers who have not complied with the classification training requirement and to take the actions required by the amended *Foreign Affairs Manual*.

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FSI should be the lead action offices for this recommendation. The A Bureau will coordinate with FSI and other appropriate Departmental offices to develop a strategy for tracking classification training completion.

FSI does not agree with this change. FSI does not track compliance for any mandatory training; we do not determine who should take mandatory courses and are not responsible for the penalties if someone does not take the mandatory offering. FSI makes this clear as we assist in courses, whether classroom or distance learning. Mandatory leadership is an example—FSI does provide the data to HR on which government employees have taken the course, and HR has been able to have that “hit” against the targeted groups with supervisory skill codes. A Bureau should look at exploring a comprehensive approach that first allows them to determine specifically who has to take this mandatory training; and then set up a system to be able to track it. It is not FSI’s responsibility, nor do we have the capacity to compare who has taken it against the “target audience”. Additionally, the Department’s Director General and Bureau of Human Resources have to determine what policy and implementation actions might be made available for those who do not comply.

FSI does send information on direct-hire employees who have completed PK323 through the electronic interface and the information ends up in the IIR Knowledge Center. The A Bureau can work with the Bureau of Human Resources (HR/EX) to develop reports that mesh with data in the Knowledge Center. FSI is also happy to produce quarterly reports to the A Bureau on who has completed the course so they can use that to compare against whoever the targeted personnel are.

FSI also believes that the Department may want to broaden the range of what courses might meet compliance, since there is an online SMART distance learning course that also deals with classification.

---

<b>Drafted By:</b>	FSINFATC 
<b>Released By:</b>	FSINFATC 
<b>Info:</b>	McGuire, Joseph H <i>ROUTINE</i> ; Russell, Catherine J <i>ROUTINE</i> ; Oshima, Wayne A <i>ROUTINE</i>

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**Dissemination Rule:** Released Copy

**UNCLASSIFIED**



United States Department of State

Washington, D.C. 20520

**UNCLASSIFIED**

December 21, 2012

**INFORMATION MEMORANDUM**

TO:           OIG – Evelyn R. Klemstine, Assistant Inspector General for Audits

FROM:        INR – Daniel H. Rubinstein, PDAS *DR*

SUBJECT:     Draft OIG Report on *Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information*

Although INR was only a “cc” recipient of the draft OIG Report on *Evaluation of Department of State Implementation of Executive Order 13526, Classified National Security Information*, INR requests that the following two points be clarified, and that related corrections be considered:

- p.5 – “...marking errors occurred because the Department had not effectively administered mandatory [classification] training...” In the case of INR, it was a software issue that resulted in the incorrect markings, not lack of training. The necessary upgrades occurred after the audit. The content on p.1 “...and the Bureau of Intelligence and Research had not effectively followed and administered proper classification policies, procedures, rules and regulations...” and on p.8 “All of the INR SCI documents evaluated did not include the names and titles of the classifiers.” could also be amended to reflect the cause of the problem.
- p.23 – As drafted, the report notes that INR only provided “frames” differentiated by classification level, and not original v. derivative. Both lists provided by INR were for material containing SCI. As INR does not produce original SCI, all the documents listed were, by default, derivative.

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**Appendix F**



United States Department of State

*Washington, D.C. 20520*

February 4, 2013

**MEMORANDUM**

**TO:** Evelyn R. Klemstine, Assistant Inspection for Audits

**FROM:** IRM/BMP/SPO/SPD – Robert Glunt 

**SUBJECT:** Draft Report - Evaluation of Department of State Implementation of  
Executive Order 13526, Classified National Security Information

IRM replies without comment to the subject report.

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**Office of Inspector General Replies to Bureau of Administration  
Additional Comments**

In its February 7, 2013, response to the draft report (see Appendix B), the Bureau of Administration (A Bureau) provided comments that did not relate directly to the recommendations. As appropriate, the Office of Inspector General (OIG) incorporated those technical comments that it could validate into the report. The A Bureau's principal comments and OIG's replies are as presented.

**Reducing Over-Classification Act**

***A Bureau Comments (page 1, paragraph 2, and page 2, paragraphs 2-4)***

The A Bureau questioned "the extent to which this audit captures the purpose of the audit requirement of the Reducing Over-Classification Act." The A Bureau also stated that OIG "seems to have conflated these two principles [pertaining to misclassification and mismarking], and the auditors have equated a technical deficiency with particular markings on documents with 'misclassification'; that OIG "appears to have relied on a finding that even a single technical deficiency in the marking of a particular document resulted in that document as a whole being 'misclassified'; and that "on this basis draws the broader conclusion that the Department has 'not effectively followed and administered proper classification policies, procedures, rules, and regulations prescribed by Executive Order 13526.'"

***OIG Reply***

OIG made changes to the sections "Executive Summary" and "Finding A. National Security Information Classification Needs Improvement" so that the reported findings more clearly addressed the overclassification condition as reflected in this audit.

**Document Classification and Marking**

***A Bureau Comments (page 3, paragraph 1)***

The A Bureau stated that its review of the 20 audit sample documents for which it was able to obtain copies indicated that all of the documents classified by Department officials were **"classified by an appropriate official at the correct level and for the correct reasons; in that sense all of them are properly classified and not 'misclassified.'"** The A Bureau further stated that OIG's audit "itself concludes that only one of the 34 sample documents was 'over-classified.'"

***OIG Reply***

OIG did not state that the documents were misclassified. OIG stated that the 34 sample documents lacked one of the five document marking requirements and had document marking errors that did not comply with Executive Order 13526.

***A Bureau Comments (page 3, paragraph 3)***

The A Bureau stated in its review of 20 documents from OIG's audit sample that "the vast majority of marks on those documents are in fact correctly done and the most typical marking error occurs where the drafting officer has failed to correctly record a portion mark" and sometimes failed "only to portion mark the subject line." The A Bureau further stated that of the 13 documents "drawn from the SAS [State Archive System] database and clearly classified by State Department personnel with the expectation that they conform to standards set forth in the Department of State Classification Guide, the only discernible deficiency in seven of the documents was a missing portion marking on the subject line. Similarly, two more documents omitted a single additional portion mark beyond the subject line." "Similarly," according to the A Bureau, "two more documents omitted a single additional portion mark beyond the subject line while the remaining documents showed similar minor technical marking omissions. In all of these cases the classification level was appropriate. For these reasons, **contrary to the conclusion of the audit, we believe that this statistical sampling of the State group on its face establishes a 100 percent grade on proper classification and a better than 90 percent grade on markings.** We repeat that such technical marking deficiencies are anticipated by E.O. [Executive Order] 13526 and implementing regulations such as 32 CFR 2001, which state that such deficiencies will not affect the classification of a document."

***OIG Reply***

The audit was concerned not only with proper classification of documents but also with checking the five marking elements required for classified documents: overall classification markings, derived from information, classified by information, duration of classification, and portion markings. These elements are the same elements tested during the Department's self-inspection, and each has an important purpose. For example, portion marking is integral to the classification system because such markings enable efficiencies in precise, consistent, and accurate derivative classification decisions. OIG underscored the importance of these five elements, stating in the audit report the following (see the section "Improper Classification of Document Marking Errors Adversely Affect National Security" in Finding A of the report):

[D]ocument marking errors may cause confusion on how to share national security information or may negatively affect the dissemination of information within the Federal Government and with State, local, and tribal entities and with the private sector. . . . Further, the absence of portion markings may contribute to the inadvertent compromise of classified information and/or inappropriate application of classification. Additionally, if an author of a document is unknown, later original or derivative classifiers would not have the opportunity to discuss the content or classification level with the author. Lastly, when



information regarding declassification is omitted, documents may be classified for longer periods of time than necessary.

Moreover, OIG sampled 20 documents at the A Bureau, with each document representing a sampling unit irrespective of the number of pages a document contained. The method OIG used for testing determined the percentage of time a certain error was found in each document reviewed in the audit. Consequently, if, for example, OIG found on the first of the 20 documents sampled and reviewed a portion marking error for each page of a 10-page document, this was counted as only 1 anomaly and not as 10. As previously indicated, the sampling units were documents and not pages. This method of tallying is standard in the auditing community when performing this type of testing.

Additionally, OIG used guidance from Executive Order 13526 and the National Archives and Records Administration, Information Security Oversight Office (ISOO), implementing directive to perform its testing. More specifically, the Executive Order “prescribes a uniform system for classifying, safeguarding, and declassifying national security information,” and the ISOO Directive “sets forth guidance to agencies on original and derivative classification of classified national security information.” Consequently, these are the standards with which the Department must comply, and they therefore supersede any part of the Department of State Classification Guide that may be at variance with them. Finally, because of impediments explained in the Scope and Methodology section (see section “Selection of Samples” in Appendix A), OIG was precluded from selecting a statistical sample despite its efforts to do so.

#### **Audit Sample**

##### ***A Bureau Comments (page 4, paragraph 3)***

The A Bureau questioned “the validity of a statistical analysis that uses some 34 documents to establish trends and form the basis of findings regarding a statistical pool of nearly 400,000 telegrams created by State Department employees in 2011, only some 73,000 of which were classified documents.” Based on this analysis, according to the A Bureau, **“82 percent of the cables [telegrams] created in 2011 by State Department employees were at the unclassified level to start with; only 18 percent of the universe of cables were classified at all.”** The A Bureau added, “It is unclear that the definitive broad-ranging conclusion can be drawn regarding 73,000 documents based on such a limited sampling.”

##### ***OIG Reply***

The work OIG performed would be more properly described as data analysis rather than statistical analysis, because statistical analysis more fittingly refers to the analysis of data gathered via statistical sampling. However, because of impediments discussed in the Scope and Methodology section (Appendix A), OIG was precluded from selecting a statistical sample and was therefore unable to make statistical projections to the universe. Rendering the sample nonstatistical also made the size of the sample moot because a nonstatistical sample cannot be projected to the universe regardless of its size. However, there is no reason to believe that taking a much larger sample or even performing a complete enumeration of the universe would not

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result in additional discrepancies. If such additional testing had been performed, the discrepancy rates for the different attributes tested might have decreased, increased, or possibly remained the same, but more discrepancies would undoubtedly have been identified.

*A Bureau Comments (page 4, paragraph 4, and page 5, paragraph 1)*

The A Bureau stated that it had excluded from its consideration the Top Secret and/or Sensitive Compartmented Information (SCI) documents located in the Bureau of Intelligence and Research because the classification and markings “are dictated by rules and regulations drafted and controlled by the Intelligence Community and not, as [OIG] noted above, by the Department’s classification guide.” The A Bureau believed it was “incorrect to include these in a sampling of documents used to evaluate the classification practices of the Department of State.”

*OIG Reply*

When reviewing the documents, OIG used guidance from Executive Order 13526 and ISOO as criteria, as both the Intelligence Community and the Department’s classification guide must comply with the Executive order and the ISOO guidance derived from the Executive order. Moreover, the Executive order and the ISOO implementing directive require “representative samples” for the annual self-inspections. Performing the self-inspection without including Top Secret documents would undoubtedly not have satisfied the requirement for the use of “representative samples.”

*A Bureau Comments (page 5, paragraph 1)*

The A Bureau questioned whether it was appropriate to include “any TOP SECRET documents in the sampling since they constitute such a miniscule fraction of the documents created by the Department.” Specifically, “[T]he Department only transmitted 76 Top Secret cables [telegrams] in 2011.” The A Bureau then noted that of the 20 documents it had reviewed from the audit sample that were not Top Secret and/or SCI, seven were classified by non-State Department personnel. The A Bureau described how and by whom the seven were classified, indicating that these methods “resulted in a skewed percentage when compared to the number of documents drafted and classified by State personnel.” The A Bureau requested that OIG “reconsider this methodological approach.”

*OIG Reply*

As previously indicated, the requirement for “representative samples” in performing the self-inspection imposed by Executive Order 13526 and the ISOO guidance required the examination of Top Secret documents—the highest classification level. OIG specifically requested only Department-drafted documents and was advised that the list sampled from represented only Department-created documents. In addition, for the seven documents examined, four did not have names or titles of the classifiers or drafters, the classifier for one document indicated during the interview that he was in fact a Department employee, and the

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remaining two documents listed a classifier who had a Department email account and telephone number in the Department directory.

***A Bureau Comments (page 6, paragraph 2)***

The A Bureau stated that OIG's sampling methodology used by OIG included 34 classified telegrams drafted during 2011 used as the sample and that 13 of the individuals who had drafted the documents had been interviewed. The A Bureau also stated that OIG's report stated that none of the 13 individuals reported that they had taken the online course PK323 but noted that the online course was not available until August 2011.

The A Bureau also stated that OIG's draft report does not mention the date in 2011 on which the sample documents were drafted, but that it was "likely that at least some of the documents in the sample were created before August of that year." The A Bureau further stated, "If it was not possible for at least some of the 13 interviewed individuals to have taken the training before they created those classified documents, it cannot be assumed that a lack of online training was the reason for any errors made in applying classification markings to the documents in the sample. Moreover, the draft report does note that 9 of the 13 had received live training on classification and there is no indication in the report that the content of the live training was incorrect or insufficient."

***OIG Reply***

Of the 34 classified documents evaluated by OIG, 21 (62 percent) were created prior to August 19, 2011, the date the online course (PK323) became available to Department classifiers. One document was missing a date, while the remaining 12 documents were created after the course was available. However, Executive Order 13526 became effective on June 27, 2010, 6 months after it was issued. Consequently, training should have begun by that time. Additionally, in the draft report OIG stated that document marking errors occurred because the Department had not effectively administered mandatory training for all Department employees with authority to classify national security information, not simply because the classifiers had not taken the online training course. Further, officials from the A Bureau's Global Information Services, Office of Information Programs and Services (A/GIS/IPS), were required to establish and implement a training program designed to meet Executive Order 13526 requirements. The online training program developed by the Department was created to meet all of the new requirements of this Executive Order. OIG did not evaluate the adequacy of the training personnel received at post.

***A Bureau Comments (page 8, paragraph 4)***

The A Bureau stated that OIG's draft report (pages 23 and 24) "indicate[d] that A/GIS/IPS refused to provide randomly selected documents to the OIG." The A Bureau further stated: "However, on April 15, 2012, A/GIS/IPS provided to the OIG lists of all telegrams in each of the eight strata requested by the OIG. The OIG never requested any of these documents from the designated points of contact within A/GIS/IPS."

***OIG Reply***

At an April 6, 2012 meeting, A/GIS/IPS agreed to provide OIG with the necessary document lists to identify its sample. OIG received the lists from A/GIS/IPS on April 11, 2012. Once OIG completed the audit procedures to identify its random sample on April 27, 2012, OIG searched the SAS database for the 40 documents.<sup>1</sup> On May 9, 2012, OIG made a request to A/GIS/IPS for 22 selected sample documents for review that were not retrievable in SAS. While certain documents were provided, A/GIS/IPS informed OIG that five documents could not be provided because of special handling tags.

**Division of Responsibility for Implementing Executive Order 13526**

***A Bureau Comment (page 5, paragraph 3) and OIG Reply***

The A Bureau noted that OIG's draft report did not "discuss or cite to the existing division of responsibilities between" the A Bureau and DS "for compliance with executive orders governing classified national security information." The A Bureau cited the July 12, 1996, Delegation of Responsibilities Memorandum, which pertained to the predecessor Executive Order 12958. This memorandum governed classified national security information and outlined how the responsibilities were to be shared in the Department.

***OIG Reply***

OIG's draft report specifically addressed the division of responsibility within the Department with regard to implementation of Executive Order 13526, as detailed in the Background section of the report. The information on the delegation of responsibilities shared in the Department was taken directly from the *Foreign Affairs Manual*, 5 FAM 480, dated June 16, 2011. OIG notes that according to the FAM, the division of responsibilities between the A Bureau and DS has essentially not changed under Executive Order 13526. The *FAM*, 5 FAM 480, also supersedes the July 12, 1996, Delegation of Responsibilities Memorandum cited by the A Bureau in its comments.

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<sup>1</sup> As part of the judgmental sampling process, OIG reviewed 20 of the 40 documents randomly selected from the confidential and secret sample of the State Archive System.

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## EXPLANATION OF EXEMPTIONS

### The Freedom of Information Act (5 U.S.C. § 552)

- Exemption 1 (5 U.S.C. § 552(b)(1)): Information that is classified to protect national security. The material must be properly classified under an Executive Order.
- Exemption 2 (5 U.S.C. § 552(b)(2)): Information related solely to the internal personnel rules and practices of an agency.
- Exemption 3 (5 U.S.C. § 552(b)(3)) Information that is prohibited from disclosure by another federal law.
- Exemption 4 (5 U.S.C. § 552(b)(4)) Information that concerns business trade secrets or other confidential commercial or financial information.
- Exemption 5 (5 U.S.C. § 552(b)(5)): Information that concerns communications within or between agencies which are protected by legal privileges, that include but are not limited to:
  1. Attorney-Work Product Privilege
  2. Attorney-Client Privilege
  3. Deliberative Process Privilege
  4. Presidential Communications Privilege
- Exemption 6 (5 U.S.C. § 552(b)(6)): Information that, if disclosed, would invade another individual's personal privacy.
- Exemption 7 (5 U.S.C. § 552(b)(7)) Information compiled for law enforcement purposes if one of the following harms would occur. Law enforcement information is exempt if it:
  - 7(A). Could reasonably be expected to interfere with enforcement proceedings
  - 7(B). Would deprive a person of a right to a fair trial or an impartial adjudication
  - 7(C). Could reasonably be expected to constitute an unwarranted invasion of personal privacy
  - 7(D). Could reasonably be expected to disclose the identity of a confidential source



7(E). Would disclose techniques and procedures for law enforcement investigations or prosecutions

7(F). Could reasonably be expected to endanger the life or physical safety of any individual

#### The Privacy Act (5 U.S.C. § 552a)

- Exemption § 552a(j)(2), whereby records may be withheld from disclosure which are maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

(A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders;

(B) information compiled for the purpose of a criminal investigation; and/or

(C) reports identifiable to an individual.

- Exemption § 552a(k)(2), whereby information compiled for law enforcement purposes, other than for the purpose of a criminal investigation, including material which, if released, would reveal the identity of a source who furnished information to the government.

#### Amendment rights

In accordance with § 552a(d)(2) of the Privacy Act and § 171.35, Title 22 of the Code of Federal Regulations, an individual has the right to request that the Department amend a record pertaining to her or him which the individual believes is not accurate, relevant, timely, or complete. A copy of this regulation is enclosed, if applicable.

# Code of Federal Regulations

## Title 22 - Foreign Relations

Volume: 1

Date: 2010-04-01 Original

Date: 2010-04-01 Title: SUBCHAPTER R - ACCESS TO INFORMATION

Context: Title 22 - Foreign Relations. CHAPTER I - DEPARTMENT OF STATE

### Subpart F—Appeal Procedures

§ 171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

(a) *Right of administrative appeal.* Except for records that have been reviewed and withheld within the past two years or are the subject of litigation, any requester whose request for access to records, declassification of records, amendment of records, accounting of disclosures of records, or any authorized holder of classified information whose classification challenge has been denied, has a right to appeal the denial to the Department's Appeals Review Panel. This appeal right includes the right to appeal the determination by the Department that no records responsive to an access request exist in Department files. Privacy Act appeals may be made only by the individual to whom the records pertain.

(b) *Form of appeal.* There is no required form for an appeal. However, it is essential that the appeal contain a clear statement of the decision or determination by the Department being appealed. When possible, the appeal should include argumentation and documentation to support the appeal and to contest the bases for denial cited by the Department. The appeal should be sent to: Chairman, Appeals SA-2, Room 8100, Washington, DC 20522-8100.

(c) *Time limits.* The appeal should be received within 60 days of the date of receipt by the requester of the Department's denial. The time limit for response to an appeal begins to run on the day that the appeal is received. The time limit (excluding Saturdays, Sundays, and legal public holidays) for agency decision on an administrative appeal is 20 days under the FOIA (which may be extended for up to an additional 10 days in unusual circumstances) and 30 days under the Privacy Act (which the Panel may extend an additional 30 days for good cause shown). The Panel shall decide mandatory declassification review appeals as promptly as possible.

(d) *Notification to appellant.* The Chairman of the Appeals Review Panel shall notify the appellant in writing of the Panel's decision on the appeal. When the decision is to uphold the denial, the Chairman shall include in his notification the reasons therefore. The appellant shall be advised that the decision of the Panel represents the final decision of the Department and of the right to seek judicial review of the Panel's decision, when applicable. In mandatory declassification review appeals, the Panel shall advise the requester of the right to appeal the decision to the Interagency Security Classification Appeals Panel under § 3.5(d) of E.O. 12958.