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NATIONAL RECONNAISSANCE OFFICE

14675 Lee Road
Chantilly, VA 20151-1715

1 June 2010

This is in response to your letter dated 19 January 2010, received in the Information Management Services Center of the National Reconnaissance Office (NRO) on 25 January 2010. Pursuant to the Freedom of Information Act (FOIA), you are requesting a copy of "1) your agency's procedures (or guidance) to process requests for the mandatory review of classified information; 2) any memos that discuss these procedures or discuss any concerns associated with the processing of mandatory declassification review (MDR); and 3) any internal reports on the handling of MDR in the agency produced in the last two years, such as annual reports."

Your request was processed in accordance with the Freedom of Information Act, 5 U.S.C. § 552, as amended. A thorough search of our files and databases located two records (36 pages) responsive to your request. These records are being released to you in full.

The FOIA authorizes federal agencies to assess fees for record services. Based upon the information provided, you have been placed in the "other" category of requesters, which means you are responsible for the cost of search time exceeding two hours (\$44.00/hour) and reproduction fees (.15 per page) exceeding 100 pages. Additional information about fees can be found on our website at www.nro.gov. In this case, no assessable fees were incurred.

If you have any questions, please call the Requester Service Center at (703) 227-9326 and reference case number F10-0082.

Sincerely,

Stephen R. Glenn
Chief, Information Access
and Release Team

Attachments: 1) *NRO Corporate Business Process 90 - Records Management*

2) *NRO Corporate Business Process Instruction 90-6 - Freedom of Information Act and Mandatory Declassification Review Instruction*

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**NATIONAL RECONNAISSANCE OFFICE
RECORDS MANAGEMENT- 90**



31 MARCH 2009

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SECTION I – INTRODUCTION

In accordance with the National Reconnaissance Office (NRO) Corporate Governance and Corporate Business Process (CBP) Instruction 20-4, *Management Control/Statement of Assurance*, this CBP defines the scope, authorities, and responsibilities specific to Records Management. The corresponding CBP instructions and procedures set forth the procedural guidance and provide applicable information to perform the Records Management sub-processes¹ successfully. This Records Management Process and corresponding CBP instructions and procedures apply to all NRO personnel² who perform tasks or have duties specific to Records Management.

Definition

Records Management processes create, manage, and preserve evidence and historical context of the NRO mission. They protect NRO information, activities, equities, and programs while providing public access to government records as required by Federal law, regulations, and Executive Orders (E.O.). These processes are: 1) Records and Information Management (RIM); and 2) Information Access and Release (IAR). Records Management processes ensure the NRO creates, manages, preserves, dispositions, and releases its records in compliance with applicable Federal laws and regulations. This includes managing all records, regardless of media or format, throughout the entire life cycle. It applies to all NRO locations, to include ground stations and launch facilities.

SECTION II – RECORDS MANAGEMENT OVERVIEW AND GUIDING PRINCIPLES

Purpose

Records Management processes provide the policy and services needed to create, manage, preserve, disposition, and release the organization's records in support of the intelligence mission and in compliance with applicable Federal laws and regulations. Effective management of NRO records enables the workforce to perform duties that are relevant to current and future activities, facilitating efficient retrieval of information. They protect the organization's records, activities, equities, and programs while providing the public with access to government records as required by Federal law and E.O.

Guiding Principles

The NRO conducts all its Records Management activities within a structured framework driven by the principles of sound Records Management practices. The Records Management sub-processes by which any NRO component will conduct corresponding activities require appropriate documentation, and are explained in Corporate Business Process Instructions.

The NRO will ensure its Records Management Program complies with applicable Federal laws, regulations, and E.O.s, specifically as prescribed by the National Archives and Records

¹ A subordinate process that supports a corporate business process.

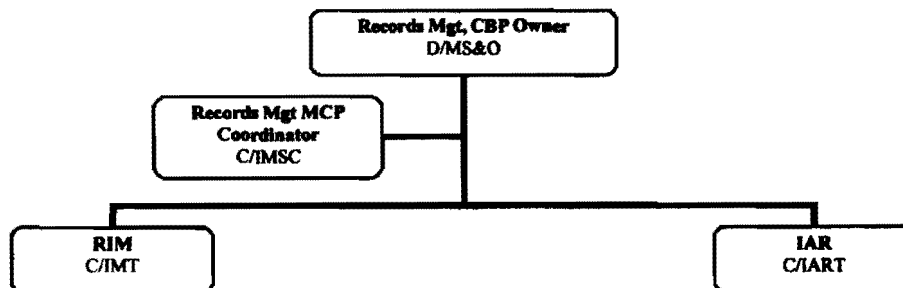
² Includes government, military, and contractor personnel.

Administration (NARA), the Information Security Oversight Office, and the General Services Administration (GSA). The NRO will fully comply with the provisions of the Federal Records Act, which applies to all records regardless of format. The NRO will create records that contain proper and adequate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the NRO. The NRO will preserve records of continuing value and systematically eliminate all others in accordance with the NRO Records Control Schedule (RCS). Electronic information systems must meet basic recordkeeping requirements as part of the approval process. The NRO Forms Management Program will develop, maintain, and approve all forms. The NRO Vital Records Program will ensure the NRO identifies and safely stores its vital records. The IAR Program will provide policy, guidance, and administration for the release of NRO records under the Freedom of Information Act (FOIA), Privacy Act (PA), Mandatory Declassification Review (MDR), Prepublication Review (PPR), and 25-Year Declassification Review processes. The NRO will fully comply with the access provisions of the FOIA and PA. Declassification and release of records will occur in accordance with E.O. 12958 as amended, and 5 United States Code (U.S.C.) § 552 (FOIA) and 5 U.S.C. § 552a (PA) as amended.

Management Control Program Organization

Every NRO employee is responsible for successful Management Control Program (MCP) implementation. See CBP Instruction 20-4, *Management Control/Statement of Assurance*, for additional guidance. The chart below identifies functional personnel key to executing the Records Management MCP in support of the NRO mission and illustrates the relationship amongst these individuals:

Records Management MCP Organizational Chart



SECTION III – RECORDS MANAGEMENT ROLES, RESPONSIBILITIES, AND AUTHORITIES

Successful implementation of Records Management processes is dependent upon the assignment of specific roles, responsibilities, and authorities to NRO senior officials. The following defines these roles, responsibilities, and authorities.

Director, National Reconnaissance Office***Responsibility***

The Director, NRO (DNRO) will establish and maintain an active, continuing program for the effective and efficient management of NRO records.

Authority

The DNRO delegates responsibilities for the Records Management Program. Section 3102 of Title 44 U.S.C. requires that the head of each Federal agency establish and maintain an active, continuing program for the economical and efficient management of agency records.

Director, Management Services & Operations***Responsibility***

As delegated by the DNRO, the Director, Management Services & Operations (D/MS&O), as the Records Management Corporate Business Process owner, will direct and administer the NRO Records Management Program.

Authority

The D/MS&O delegates responsibilities for the Records Management Program. Section 3102 of Title 44 U.S.C. requires that the head of each Federal agency establish and maintain an active, continuing program for the economical and efficient management of agency records.

Management Services & Operations, Administrative Support Group, Chief/Information Management Services Center or designee***Responsibilities***

On behalf of the D/MS&O, the Chief/Information Management Services Center (C/IMSC), serving as the NRO Records Management Officer will establish a comprehensive NRO Records Management Program in accordance with applicable Federal laws, regulations, and E.O.s. The C/IMSC, or his designee, will develop and implement policies and procedures on the creation, maintenance, use, disposition, access and release, and declassification of all NRO records. Implementing instructions further define the duties of the C/IMSC, Chief/Information Management Team (C/IMT), Chief/Information Access and Release Team (C/IART), Information Management Technical Officers (IMTO), Information Review and Release Analysts, the heads of Directorates and Offices (Ds and Os), Program Records Officers, Information Access Officers (IAO), and all NRO employees.

Authorities

The C/IMSC serves as the NRO Federal Agency Records Officer and liaison with NARA, authorizes submission of changes to the RCS to NARA, and delegates responsibilities for the Records Management Program. Section 3102 of Title 44 U.S.C. requires that the head of each Federal agency establish and maintain an active, continuing program for the economical and efficient management of agency records.

Heads of NRO Components***Responsibility***

The heads of all NRO components, to include ground stations and launch facilities, will work with IMSC to establish a RIM program within their offices. The program will ensure compliance with all records requirements.

Authority

Section 3102 of Title 44 U.S.C. requires that the head of each Federal agency establish and maintain an active, continuing program for the economical and efficient management of agency records.

The Office of the General Counsel and the Inspector General***Responsibilities***

The Office of the General Counsel (OGC) and the Inspector General (IG) will coordinate with IMSC to ensure proper procedures are followed for legal holds. OGC and IG will notify IMSC whenever an investigation or legal actions require preservation of records.

Authorities

All NRO records must be dispositioned in accordance with 44 U.S.C. Chapter 33 and 36 Code of Federal Regulations (CFR) 1228, and 18 U.S.C. Section 2071 provides criminal penalties for the willful and unlawful destruction or removal of Federal records. As part of the disposition review process, the OGC and the IG will review records eligible for destruction in accordance with the NRO Records Control Schedule, and notify IMSC whenever destruction of specific documents are put on hold for legal reasons.

The Director, National Reconnaissance Operations Center***Responsibility***

The Director/National Reconnaissance Operations Center (D/NROC) will ensure that Continuity of Operations Plans (COOP) include vital records requirements.

Authority

The D/NROC is the NRO authority for the COOP, and will ensure that the COOP includes vital records that comply with Federal Continuity Directive (FCD) 1, Annex I, February 2008 and 36 CFR 1236.

The Chief Information Officer***Responsibilities***

The Chief Information Officer (CIO), when approving new systems, new applications, or when making substantial modifications to existing systems, will work with IMSC to ensure the NRO incorporates Federal recordkeeping requirements into the design of the information systems.

The CIO is the NRO Privacy Official, and serves as the NRO Appellate Authority for access and release appeals.

Authorities

The CIO approves new and existing systems as having met recordkeeping requirements and is the final appellate authority for NRO decisions on access and release appeals. The 36 CFR 1234.10 requires Federal agencies to manage electronic records, and specifies the establishment of procedures for addressing Records Management requirements, including recordkeeping requirements and disposition, before approving new electronic information systems or enhancements to existing systems.

As the NRO Privacy Official, the CIO handles Privacy Impact Assessments, Federal Information Security Management Act, and Privacy Systems of Records Notices. The CIO will create the privacy-related instructions, which will include input from the Records Management CBP owner pertaining to the administrative process for release of Privacy Act records to the general public.

*Contracting Officers and Contracting Officer Technical Representatives**Responsibilities*

Contracting Officers (CO) and Contracting Officer Technical Representatives (COTR) will make provisions during contract negotiations for retention and disposition of records at contract closeout and specify in the contract what records need to be delivered to the Government. They will work with the IMSC to ensure the appropriate transfer, storage, and disposition of records within their purview.

Authority

COs and COTRs confirm required records are delivered to the NRO. The 36 CFR 1222.48 requires agencies to specify the delivery to the Government of all data needed for the adequate and proper documentation of contractor-operated programs.

*The Directors of the Office of Security and Counterintelligence and the Office of the General Counsel**Responsibilities*

The Directors of Office of Security & Counterintelligence (OS&CI) and OGC will serve as members of the NRO Appellate Panel for access and release decisions. OS&CI will coordinate on all matters of security policy in preparation of responses to requests for information pursuant to FOIA, E.O. 12958 as amended, and PPR. OGC will provide legal guidance and opinion on all issues related to access and release, including appeals and litigation.

Authority

The DNRO appoints the members of the Appellate Panel.

The Directors of the Office of General Counsel, the Office of the Inspector General, the Center for the Study of National Reconnaissance, the Information Management Services Center Information Access and Release Team, Office of Security & Counterintelligence, and the heads of all appropriate Offices of Record

Responsibility

The Directors of OGC, OIG, the Center for the Study of National Reconnaissance, the IMSC Information Access and Release Team (IART), OS&CI, and all appropriate Offices of Record will coordinate with IMSC to ensure they follow proper procedures for destruction or transfer of all official records. Specific procedures for these processes are in CBP Instruction 90-2, *Records Disposition and Preservation*.

Authority

All NRO records must be dispositioned in accordance with 44 U.S.C. Chapter 33 and 36 CFR 1228. The 18 U.S.C. Section 2071 provides criminal penalties for the willful and unlawful destruction or removal of Federal records.

SECTION IV – EFFECTIVE FEEDBACK MECHANISMS

Table 1 below identifies the mechanisms available to employees to provide feedback on the effectiveness of Records Management internal control. Some of these are recurring activities that are a part of the NRO's day-to-day operations and others are non-recurring that include on-the-spot feedback or evaluations of internal control as a by-product of an activity. These feedback sources, along with any others deemed necessary, provide valuable information to the functional manager when formulating their respective annual Statement of Assurance and confidence level in the adequacy of the Records Management system of internal control.

Table 1: Information Sources Used to Evaluate Internal Control Effectiveness

Information Source	Schedule	Reviewer
<i>Recurring</i>		
▪ Staff meetings	▪ Weekly	▪ C/MT, C/IART
▪ Individual Program reviews	▪ Monthly	▪ C/IMSC
▪ All Hands meetings	▪ Monthly	▪ C/IMSC
▪ Departing personnel debriefs	▪ As required	▪ C/IMSC
▪ RIM Forums	▪ Biannually	▪ C/MT
▪ E.O. 12958 as amended reviews	▪ Annually	▪ C/IART
▪ RIM training	▪ Quarterly	▪ C/MT
▪ IAO training	▪ Quarterly	▪ C/IART
▪ Equities training	▪ Quarterly	▪ C/IART
▪ MCPs	▪ Annually	▪ C/IMSC
▪ Statement of Assurance	▪ Annually	▪ C/MS&O
<i>Non-Recurring</i>		
▪ IG audits and inspections	▪ As they occur	▪ Director of Office
▪ Customer surveys	▪ As services are provided	▪ ERM Lead
▪ Disposition process	▪ Annually	▪ Disposition Lead
▪ NARA appraisals	▪ As required	▪ File Plan/RCS Lead

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▪ FOIA requests	▪ As they occur	▪ C/IART
▪ Prepublication Review	▪ As they occur	▪ C/IART
▪ Privacy Act requests	▪ As they occur	▪ C/IART
▪ Mandatory Declassification	▪ As they occur	▪ C/IART
▪ 25-Year Review	▪ As they occur	▪ C/IART
▪ RCS updates	▪ As needed	▪ C/IMSC & NARA

SECTION V – RECORDS MANAGEMENT POLICY SUMMARY

Table 2 below identifies and summarizes policy specific to Records Management that NRO employees must adhere to. Appendix A – Records Management Policy provides detailed information for each of the respective policies identified in the table below.

Table 2: Records Management Relevant Policy Summary

Policy	Description
▪ Records and Information Management (RIM)	<ul style="list-style-type: none"> ▪ Each agency must create, manage, preserve and disposition records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. (Federal Records Act; 36 CFR Chapter XII, Subchapter B) ▪ CBP Instructions 90-1, 90-2, 90-3, 90-4 prescribe the policies and procedures followed at the NRO.
▪ Information Access and Release (IAR)	<ul style="list-style-type: none"> ▪ The IAR Program will provide policy, guidance, and administration for the release of NRO records under the FOIA, PA, MDR, PPR, and 25-Year Declassification Review processes. The NRO will fully comply with the access provisions of the FOIA and the PA. Declassification and release of records will occur in accordance with E.O. 12958 as amended and 5 USC 552 and 5 USC 552a as amended. ▪ CBP Instructions 90-5, 90-6, 90-7 prescribe the policies and procedures followed at the NRO.

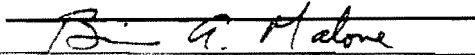
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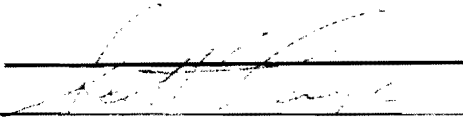
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APPROVING SIGNATURES

As the Corporate Business Process Owner for Records Management, I confirm that this document provides a complete representation of the Records Management process and that the document has been coordinated with NRO components that are stakeholders of the process.



Brian A. Malone
Records Management Corporate Business Process Owner



Scott F. Large
Director, National Reconnaissance Office

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APPENDIX A – RECORDS MANAGEMENT POLICY – ADDITIONAL GUIDANCE***Records Creation, Maintenance and Use***

Section 3101 of Title 44 U.S.C. requires the head of each Federal agency to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. Agencies must also comply with GSA regulations on creation of records found in 41 CFR Part 102-193 and NARA regulations found in 36 CFR Chapter XII Subchapter B. Agencies must institute adequate records management controls over the maintenance and use of records wherever they are located to ensure that all records, regardless of format or medium, are organized, classified, and described to promote their accessibility. They must make these records available for use by all appropriate agency staff for their authorized retention period. Agencies must maintain permanent records in a format that will permit transfer to the National Archives. The C/IMSC serves as the NRO Federal Agency Records Officer and liaison with NARA and is the official authorized to approve transfers of records to the custody of NARA and maintain the NRO RCS. Each agency must periodically evaluate its records management programs relating to records creation and recordkeeping requirements, maintenance and use of records, and records disposition.

Vital Records

Agencies must establish a program for the identification and protection of vital records: those records needed by agencies for continuity of operations before, during, and after emergencies, and those records needed to protect the legal and financial rights of the Government and persons affected by Government activities. The management of vital records is part of an agency's continuity of operations plan designed to meet emergency management responsibilities.

Electronic Records Management

The management of electronic records must be integrated with the management of other Agency records and information resources. New electronic information systems, and systems undergoing enhancements, must meet basic recordkeeping requirements in compliance with electronic records management business processes. Agencies must specify the location, manner, and media in which they will maintain electronic records to meet operational and archival requirements, maintain inventories of electronic information systems to facilitate disposition, and specify methods of implementing controls over national security-classified, sensitive, proprietary, and PA records stored and used electronically.

Records Disposition and Preservation

Agencies must ensure the proper authorized disposition of their records, regardless of format or medium, so that permanent records are preserved and temporary records no longer of use to an agency are promptly disposed of when their required retention period expires in accordance with the approved Records Control Schedule. The NRO RCS applies to all NRO records, and must be approved by NARA; the NARA General Records Schedule applies to records common to multiple agencies and is used to disposition records. As an intermediate step, when records are

not needed for current activities (i.e., when they become inactive records) they may be transferred to the NRO Records Center. Non-record materials and personal papers must be maintained separately from record materials. 18 USC Section 2071 provides criminal penalties for willful and unlawful destruction or removal of Federal records.

Forms Management

Agencies must review all existing forms periodically to determine whether they can be improved or cancelled, and must not create forms that collect information inefficiently or unnecessarily. The NRO Forms Program Manager will approve, maintain, and control all NRO forms. The NRO Forms Management Program will evaluate existing Federal forms for use by the NRO, coordinate with the owning agency for adoption of the form by NRO, and design all NRO forms.

Privacy

The NRO privacy program, in accordance with applicable laws, regulations, and E.O.s, provides guidance for the collection and disclosure of information maintained in records on individuals, the handling of requests for amendment or correction on such records, appeal and review of NRO decisions on these matters, and the application of specific exemptions under the Privacy Act. The Records Management CBP covers the administrative process for the release of privacy records to the general public. IMSC, as the Records Management CBP owner, works with the CIO to ensure adequate PA processes are documented in the CBP Instruction.

Prepublication Review

The IART of the IMSC provides guidance for the public release of unclassified information/PPR process. All materials containing information about or affecting the plans, policies, programs, or operations of the NRO or U.S. Government must be approved before release. The information proposed for release must be submitted through the office Program Security Officer and component supervisory chain for approval before submission to IART.

25-Year Declassification

The primary purpose of the 25-Year Declassification program is to review for declassification all NRO permanent records that turn 25 years old on 31 December of each year (and every year thereafter) in accordance with E.O. 12958 as amended.

Freedom of Information Act and Mandatory Declassification Review

The FOIA allows the public to request access to records of the Executive branch of the Federal Government unless FOIA exemptions preclude the public disclosure of the information. MDR allows the public to request access to records of the Executive branch unless the information is exempt from disclosure under E.O. 12958, as amended, exemptions. The IART responds to all FOIA/MDR requests. The Chief/IART serves as the initial release/denial authority for responsive records. The Records Management CBP covers the administrative process for release of records to the general public.

APPENDIX B – RECORDS MANAGEMENT SUB-PROCESSES

The NRO performs several sub-processes within the Records Management Process. These sub-processes are imperative to accomplishing the NRO mission. Table 3 below illustrates every Records Management sub-process performed within the NRO as well as a corresponding description, documentation source (CBP, CBP Instruction, and CBP Procedure) and point of contact. Moreover, when performing these sub-processes every NRO component will adhere to every applicable Records Management instruction and procedure.

Table 3: Records Management Sub-Processes

Note: The table below must reflect every sub-process performed to support the respective CBP.

Description	Documentation Source	Point of Contact
<i>Records Creation</i>		
<ul style="list-style-type: none"> Each federal agency is required by law to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. 	<ul style="list-style-type: none"> CBP Instruction 90-1 Federal Records Act 36 CFR 1220.34 36 CFR 1222 36 CFR 1234 	<ul style="list-style-type: none"> C/MT
<i>Records Maintenance and Use</i>		
<ul style="list-style-type: none"> The management of all agency records, regardless of format or location, from creation through maintenance and use (includes electronic records and electronic information systems, which must meet recordkeeping requirements; vital records, which must be available in case of emergency; and records in any format or media, which must be kept useable/readable). 	<ul style="list-style-type: none"> CBP Instruction 90-2 Federal Records Act NRO File Plan 36 CFR 1220.36 36 CFR 1222 36 CFR 1234 36 CFR 1236 	<ul style="list-style-type: none"> C/MT
<i>Records Disposition and Preservation</i>		
<ul style="list-style-type: none"> Records must be dispositioned in accordance with the NRO Records Control Schedule, which prescribes rules for the appropriate destruction, preservation, or transfer to the National Archives for all NRO records 	<ul style="list-style-type: none"> CBP Instruction 90-3 Records Control Schedule General Records Schedule 36 CFR 1220.38 36 CFR 1238 18 USC 2071 	<ul style="list-style-type: none"> C/MT

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<i>Forms Management</i>		
<ul style="list-style-type: none"> All NRO forms must be created and managed according to the processes established by the Forms Management Program 	<ul style="list-style-type: none"> CBP Instruction 90-4 41 CFR 102-193 DODI 7750.07 	<ul style="list-style-type: none"> C/IMT
<i>25-Year Automatic and Systematic Declassification Review</i>		
<ul style="list-style-type: none"> Review of all records as they become 25 years old for possible declassification 	<ul style="list-style-type: none"> CBP Instruction 90-5 E.O. 12958 	<ul style="list-style-type: none"> C/IART
<i>Freedom of Information Act and Mandatory Declassification Review</i>		
<ul style="list-style-type: none"> Administrative process for the access and release of NRO records requested under the provisions of FOIA or Mandatory Declassification Review 	<ul style="list-style-type: none"> CBP Instruction 90-6 5 USC 552 E.O. 12958 	<ul style="list-style-type: none"> C/IART
<i>Prepublication Review</i>		
<ul style="list-style-type: none"> Administrative process for the review, coordination, and approval for release of unclassified information 	<ul style="list-style-type: none"> CBP Instruction 90-7 	<ul style="list-style-type: none"> C/IART

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APPENDIX C – GLOSSARY

Appraisal: The process of determining the value and thus the final disposition of records based upon their administrative and other uses, their evidential and informational or research value, their arrangement, and their relationship to other records. This is a function carried out by NARA.

Disposition: Actions taken regarding records following their appraisal by NARA. No disposition of any series of records is authorized before its appraisal. Records disposition is any of the following activities.

- a. Disposal by destruction or donation of temporary records no longer necessary for the conduct of business
- b. Transfer of records to Federal Agency storage facilities or Records Centers (the NRO has its own Records Center)
- c. Transfer to NARA of records determined to have sufficient historical or other value to warrant continued Preservation
- d. Transfer of records from one Federal Agency to another Federal Agency.

Disposition Schedule: A document approved by the Archivist of the United States governing, on a continuing basis, the mandatory disposition of a record series of an organization or agency. Also known as a records schedule, Records Control Schedule, retention schedule, or records retention schedule. See also General Records Schedule (GRS).

Forms: A standardized business tool for collecting and transmitting information; a catalyst for completing a business process resulting in a record. This includes electronically generated forms as well as paper copy forms.

General Records Schedule (GRS): A schedule issued by the Archivist of the United States governing the disposition of specified recurring series common to several or all agencies of the Federal Government (housekeeping or administrative records). These series include civilian personnel and payroll records, procurement, budget, travel, electronic, audiovisual, and administrative management records. When any Federal Agency creates records described in the GRS, their disposition is governed thereby. Only the Archivist of the U.S. may grant exceptions. The GRS DOES NOT apply to an agency's program records. Program records are those specific to an agency's mission or not "common to several or all agencies of the Federal Government."

Inactive Records: Records that are no longer needed to conduct current agency business and therefore are ready for retirement to the Records Center or for final disposition.

Information Management: Management of data, in all of its forms, that provides for the proper disposition of agency records in compliance with all legal, regulatory, and statutory responsibilities. Key to meeting these requirements is adherence to an office's RCS.

Information Management Technical Officer: A member of the Information Management staff responsible for working with the Ds and Os to manage RIM programs.

Life Cycle of Records: The concept that records pass through three stages: creation, maintenance and use, and disposition.

National Archives and Records Administration (NARA): The Federal agency, under the Federal Records Act (44 U.S.C.), responsible for appraising records as either permanent or temporary; accessioning, preserving, and making available permanent records; and for assisting other agencies with their records management programs.

Non-record Material: Government-owned documentary materials that do not meet the legal definition of records or are specifically excluded from status as records by statute. These records include extra copies of documents kept only for convenience of reference, library or museum materials intended solely for reference or exhibition, and stocks of publications and processed documents.

Permanent Records: Records appraised by NARA as having sufficient historical or other value to warrant continued preservation by the Federal Government beyond the time they are needed for administrative, legal, or fiscal purposes. They generally fall under three broad categories (these are guidelines used by NARA): (1) policy, procedural, organizational, or reporting documents; (2) records that provide executive direction to components; and (3) records documenting major functions of organizational components.

Personal Papers: Documentary materials of a private or nonpublic character that do not relate to, or have an effect upon, the conduct of agency business.

Preservation: (1) The responsibility to provide adequate facilities for the protection, care, and maintenance of records. (2) Specific measures, individual and collective, undertaken for the repair, maintenance, restoration, or protection of documents in all media formats.

Program Records Officer (PRO): The person responsible for working with the IMTO to administer the RIM program for a particular office or program.

Records: All books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other

activities of the Government or because of the informational value of data in them. Included are records made by contractors at Government direction regardless of location.

Records Center: A facility, sometimes specially designed and constructed, for the low-cost, efficient storage, servicing, security, and processing of Inactive and semi-active Records pending their ultimate disposition. Generally, this term refers to the Federal Records Centers maintained by NARA, but provisions exist, providing stringent criteria are met, to permit individual Federal agencies to create their own Records Centers or to contract this service out to commercial enterprises. The NRO has its own Records Center.

Records Control Schedule (RCS): See Disposition Schedule.

Records Management: The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

Temporary Records: Records designated by NARA for destruction, either immediately or after a specified retention period. Temporary records are most commonly found among housekeeping records and administrative files.

Unscheduled Records: Records for which no disposition has been authorized by NARA and that are not included in an approved RCS. Such records must be preserved until a final NARA-approved disposition is received.

Vital Records: Records essential to the continued functioning or reconstitution of an organization during and after an emergency, and also those records essential to protecting the rights and interests of that organization and of the individuals directly affected by its activities. These records include both emergency-operating and rights-and-interests records that are duplicates or extra copies of original records and are stored off-site in a location protected from local disaster. Sometimes called vital files or essential records.

APPENDIX D – REFERENCES

1. 5 U.S.C. § 552, Freedom of Information Act of 1966, as amended
2. 5 U.S.C. § 552a, Privacy Act of 1974, as amended
3. 18 U.S.C. §§ 793, 794, 798, and 2071 (Espionage and Censorship)
4. 44 U.S.C. Chapters 21, 29, 31, 33 (Federal Records Act of 1950)
5. E.O. 12958, Classified National Security Information, as amended by E.O. 13292, 25 March 2003
6. E.O. 13392, Improving Agency Disclosure of Information, 19 December 2005
7. Federal Information Security Management Act, 2002
8. Federal Continuity Directive (FCD) 1, Federal Executive Branch National Continuity Program and Requirements, February 2008
9. 5 CFR 1320, Controlling Paperwork Burdens on the Public
10. 32 CFR, Part 326, NRO Privacy Act Rule
11. 36 CFR, Chapter XII, Subchapter B, Records Management
12. 41 CFR, Chapter 102, Subchapter G, Part 102–193, Creation, Maintenance, and Use of Records
13. Public Law 96-511, Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)
14. Clinger-Cohen Act of 1996, 10 February 1996, as amended
15. Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources, 28 November 2000
16. OMB Final Guidance Interpreting the Provisions of Public Law 100-503, Computer Matching and Privacy Protection Act of 1988 (54 FR § 25818, 19 June 1989)
17. OMB Privacy Act Guidelines, 1 July 1975 (40 FR § 28948, 9 July 1975)
18. Department of Defense (DoD) Directive 5015.2, DoD Records Management Program, 6 March 2000

19. DoD Directive 5105.23, National Reconnaissance Office, 27 March 1964
20. DoD Directive 5400.07, DoD Freedom of Information Act (FOIA) Program, 2 January 2008
21. DoD Directive 5400.11, DoD Privacy Program, 8 May 2007
22. DoD Directive 8000.1, Management of DoD Information Resources and Information Technology, 27 February 2002
23. DoD Instruction 7750.07, DoD Forms Management Program, 20 April 2007
24. DoD Administrative Instruction AI-15, Administrative Procedures for the Office of the Secretary of Defense Records Management Program 14 November 2006
25. DoD Instruction 5230.29, Security and Policy Review of DoD Information for Public Release, 8 January 2009
26. DoD Regulation 5400.7R, DoD Freedom of Information Act Program, 4 September 1998
27. DoD Regulation 5400.11-R, DoD Privacy Program, 14 May 2007
28. DoD Regulation 5230.9, Clearance of Information for Public Release, 9 April 1996
29. DoD 5015.02-STD, Design Criteria Standard for Electronic Records Management Software Applications, 25 April 2007
30. ISO 15489-1:2001, Information Documentation – Records Management, 2001
31. NRO Acquisition Manual
32. NRO Records Control Schedule
33. NRO File Plan
34. NRO Corporate Governance Plan, 3 July 2008
35. Memorandum of Instruction (for Brian Malone), 2 May 2008

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**NATIONAL RECONNAISSANCE OFFICE
RECORDS MANAGEMENT – 90**



**FREEDOM OF INFORMATION ACT AND MANDATORY
DECLASSIFICATION REVIEW INSTRUCTION – 90 - 6**

22 JULY 2009

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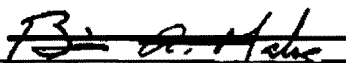
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APPROVING SIGNATURE

As the Corporate Business Process Owner for Records Management, I confirm that this document provides a complete representation of the Freedom of Information **Act** and Mandatory Declassification Review Instruction and that the document has been coordinated with NRO components that are stakeholders of the process.



Brian Malone

Records Management Corporate Business Process Owner

[INSERT CLASSIFICATION]

SECTION I – INTRODUCTION

In accordance with the National Reconnaissance Office (NRO) Records Management corporate business process (CBP) dated 31 March 2009, this instruction sets forth the procedural guidance and provides applicable information to perform the Freedom of Information Act (FOIA) and Mandatory Declassification Review (MDR) sub-processes¹. This instruction applies to all NRO personnel² who perform tasks or have duties specific to FOIA and MDR requests.

SECTION II – RECORDS MANAGEMENT – FOIA AND MDR SUB-PROCESS DOCUMENTATION

The sub-sections that follow detail the FOIA and MDR sub-processes. Table I below describes the information that follows within this section.

Table I: Sub-Section Information Key

Parent CBP	Illustrates alignment of the referenced sub-process to the applicable CBP.
Description	Brief description and background of the referenced sub-process, includes purpose and other applicable overview information.
Point(s) of Contact	The point of contact as identified by the CBP owner for the referenced sub-process.
Support System(s)	Identifies all systems used to perform the referenced sub-process.
Process Narrative	Detailed step-by-step description from start-to-finish to accomplish the referenced sub-process.
Process Flow Diagram	High-level visual step-by-step representation of the narrative from start-to-finish to accomplish the referenced sub-process.
Risk & Internal Control Table	The Risk & Internal Control Table identifies: <ul style="list-style-type: none"> ▪ Risks within the referenced sub-process that need to be overcome, or control objectives that when achieved mitigate identified risks to the extent possible; and ▪ Internal control that mitigates risk, or achieves control objectives to facilitate the successful accomplishment of NRO's mission.

Governing CBP

Records Management

Description

The Information Access and Release process, under the Information Management Services Center (IMSC), Information Access and Release Team (IART), provides guidance for FOIA and MDR requests and appeals. The NRO will respond to all requests from the public seeking NRO records under FOIA and MDR. To support the government's policy of openness and to ensure that the general public is granted maximum access to all releasable records, the NRO will subject FOIA and MDR requests to a thorough and comprehensive review.

¹ A subordinate process that supports a corporate business process.

² Includes government, military, and contractor personnel.

Point of Contact

The C/IART is the primary point of contact for this sub-process.

Support Systems

- **Case Analyst Status Tracking Tool (CASTT)**
CASTT is the database used to track the status of all FOIA and MDR cases.
- **Database of Released Records (DORR)**
All records that have been released to the public via FOIA and MDR requests are scanned into the database to ensure a record is kept of all released information.
- **IMSC Website hosted in SharePoint**
The IMSC Website contains additional aids to support the process.
- **Information Access Officer (IAO)s**
There are personnel identified in each component known as IAOs, who create the network of contacts and subject matter experts needed by IMSC to facilitate FOIA searches. IMSC works through the IAO's to accomplish the search process.

Process Narrative

1.1 Procedures for FOIA Requests:

- 1.1.1 FOIA request is submitted to the NRO.
- 1.1.2 Any component that receives a FOIA request for records, either hardcopy or electronic, will forward the request to the MS&O/ASG/IMSC/IART.
- 1.1.3 On receipt of a FOIA request, the IART will coordinate with the appropriate components within the NRO to gather records responsive to the request.
- 1.1.4 The responding component(s) will review all collected records and redact classified or sensitive information. They will provide IART with both clean and treated copies of the records for final processing.
- 1.1.5 When requested information is technical in nature, IART will coordinate with the appropriate program office(s) to ensure a composite technical review is completed.
- 1.1.6 Program offices will complete a technical review and return records to IART FOIA team.
- 1.1.7 Determine if records are more than 25 years old.

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- 1.1.8 If records are more than 25-years old, the IART declassification staff will conduct a review and return the material to the IART FOIA team.
- 1.1.9 If records are less than 25-years old (or are over 25-years old and have been returned from declassification review), then the IART will coordinate with OS&CI, OSC, and OGC for a final review of the records provided by the responding components before releasing the responsive records.
- 1.1.10 OS&CI, OSC, and OGC will review the records and return them to the IART FOIA team.
- 1.1.11 If OGA equities are present, the IART will coordinate with the appropriate agency for review.
- 1.1.12 OGA will review the records and return them to the IART FOIA team.
- 1.1.13 If 25-year old information is present, the IART FOIA team will provide final versions of the case to the IART 25-year declassification staff for updates to declassification guidance.
- 1.1.14 The IART declassification staff will update the declassification guide.
- 1.1.15 If no 25-year old information is present, the FOIA case will proceed to a resolution.
- 1.1.16 When NRO components disagree about the protection of information, the IART will attempt to resolve differences. If the components cannot reach an agreement, the OGC will review and resolve the issue.
- 1.1.17 When the FOIA review is completed and all issues are resolved, the record is released in full, denied in part, or denied in full. (*If the requestor appeals, see 1.2 – FOIA Appeal Process*)

1.2 FOIA Appeal Process:

- 1.2.1 Persons wishing to appeal an NRO FOIA action (e.g., denial of requested access to records or information, denial of a waiver of fees, or failure to respond within established time limits) have the right to appeal that decision and to have the NRO review the initial action.
- 1.2.2 The NRO Appellate Authority is the Deputy Director of the NRO (DDNRO) or designee.
- 1.2.3 Officials who provided advice in the initial release decision will not participate in the appeal of that decision.

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- 1.2.4 The NRO Appeal Panel comprises the Directors, OS&CI and OGC. The panel is advised by the C/IART. This panel will review requests for release of records and make impartial recommendations to the Appellate Authority. Serving under the authority and control of the Appellate Authority, the Appeal Panel will conduct a new review of appealed cases. In support of the Appeal Panel, the IART FOIA team will:
 - 1.2.4.1 Review the initial case for completeness and accuracy and to determine whether an adequate search was conducted;
 - 1.2.4.2 Collect the facts and rationale behind the initial denial;
 - 1.2.4.3 Determine whether the exemptions cited were applied in accordance with law and regulations;
 - 1.2.4.4 Perform a declassification review of material responsive to the request, if warranted;
 - 1.2.4.5 Prepare for release of any additional material deemed releasable; and
 - 1.2.4.6 Advise the Appellate Authority of the results of the review and take any other necessary and proper action(s) to reach a recommendation.
- 1.2.5 The Appeal Panel will review the case and make a decision. The Appeal Panel can deny the request in full, deny the request in part, or grant the request in full.
- 1.2.6 After the Appeal Panel has reached a decision, the IART will prepare a summary and response letter for the Appellate Authority's review. The summary will include the findings of the Appeal Panel with a recommendation for signature. Based on the decision of the Appellate Authority, the IART will take final action on the case.
- 1.2.7 A response is sent to the FOIA requester with the results of the appeal.

2.1 Procedures for MDR Requests:

- 2.1.1 An MDR request is submitted to the NRO.
- 2.1.2 Any component that receives a MDR request for records, either hardcopy or electronic, will forward the request to the MS&O/ASG/IMSC/IART.

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2.1.3 On receipt of a MDR request under E.O. 12958, as amended, the IART FOIA team will determine if the records are more than 25-years old.

2.1.4 For records less than 25-years old, the IART FOIA team will coordinate with the appropriate NRO components to conduct a declassification review of records responsive to the request.

2.1.5 Selected components conduct declassification review and return the records to the IART.

2.1.6 If an MDR involves information that is more than 25-years old, the IART declassification team will conduct a declassification review of records responsive to the request. The IART is the release authority for records this old.

2.1.7 Upon receipt of the reviewed records from NRO components, the IART FOIA team will coordinate the proposed response with the OS&CI, OSC, and OGC as needed.

2.1.8 The OS&CI, OSC, and OGC will review the proposed response and submit comments back to the IART FOIA team.

2.1.9 All feedback is collected and the case proceeds to resolution.

2.1.10 When NRO components disagree regarding the classification of a responsive record, the IART FOIA team will attempt to reach a resolution. If the components cannot reach a resolution, the NRO Appeal Panel will review and resolve the issue.

2.1.11 The Appeal Panel will review and resolve challenges to classification decisions made in response to MDR requests.

2.1.12 The IART will respond to the requester with the decision.

2.2 MDR Appeal Process.

2.2.1 Persons wishing to appeal an MDR action (e.g., denial of requested access to records or information) have the right to appeal that decision to the NRO.

2.2.2 The DDNRO or designee serves as the Appellate Authority.

2.2.3 Officials who provided advice in the initial release decision will not participate in the appeal of that decision.

2.2.4 The NRO Appeal Panel comprises the Directors of OS&CI and OGC. The panel is advised by the IART. This panel will review requests for release of records and make impartial recommendations to the Appellate Authority. Serving under the authority and

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control of the Appellate Authority, the Appeal Panel will conduct a new review of appealed cases. In support of the Appeal Panel, the IART FOIA team will:

2.2.4.1 Review the initial case for completeness and accuracy and to determine whether an adequate search was conducted;

2.2.4.2 Collect the facts and rationale behind the initial denial;

2.2.4.3 Determine whether the exemptions cited were applied in accordance with law and regulations;

2.2.4.4 Perform a declassification review of material responsive to the request, if warranted;

2.2.4.5 Prepare for release of any additional material deemed releasable; and

2.2.4.6 Advise the Appellate Authority of the results of the review and take any other necessary and proper action(s) to reach a recommendation.

2.2.5 The Appeal Panel will make a decision and communicate it to the IART FOIA team.

2.2.6 After the Appeal Panel has reached a decision, the IART FOIA team will prepare a summary and response letter for the Appellate Authority's review. The summary will include the findings of the Appeal Panel with a recommendation for signature.

2.2.7 Based on the decision of the Appellate Authority, the IART FOIA team sends the final decision to the requestor.

Process Flow Diagram

FOIA Requests:

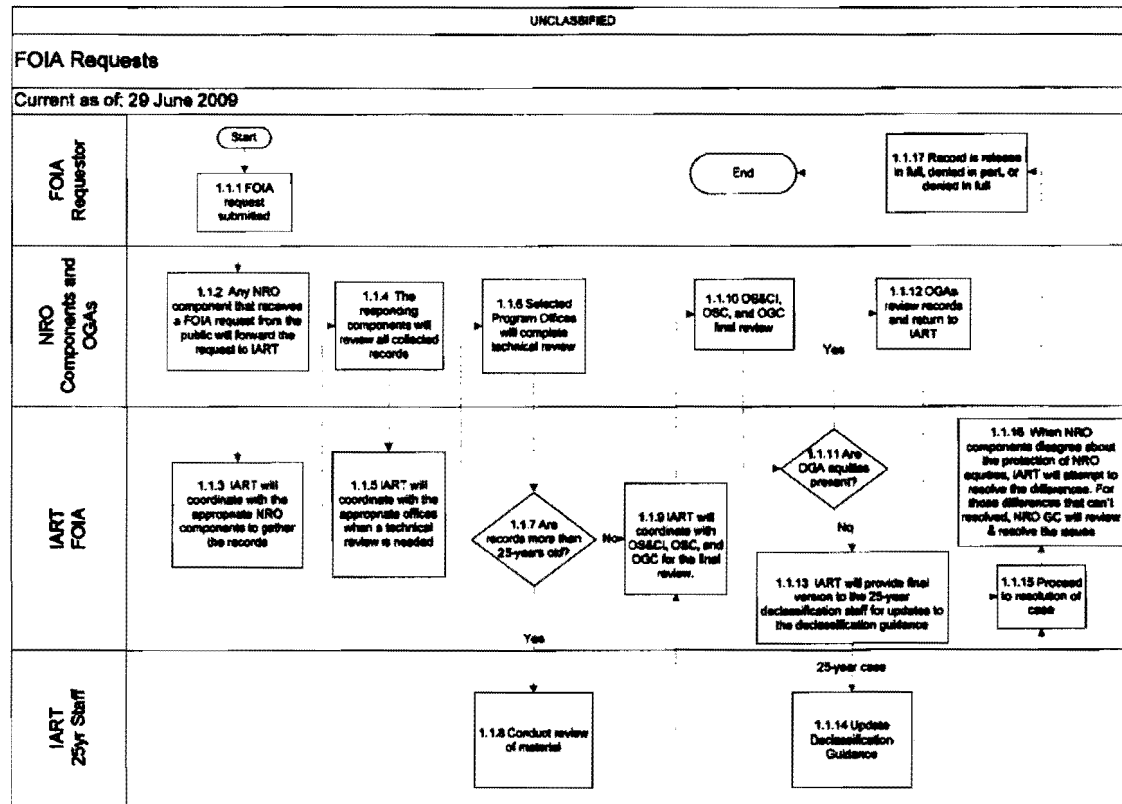
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FOIA Appeals:

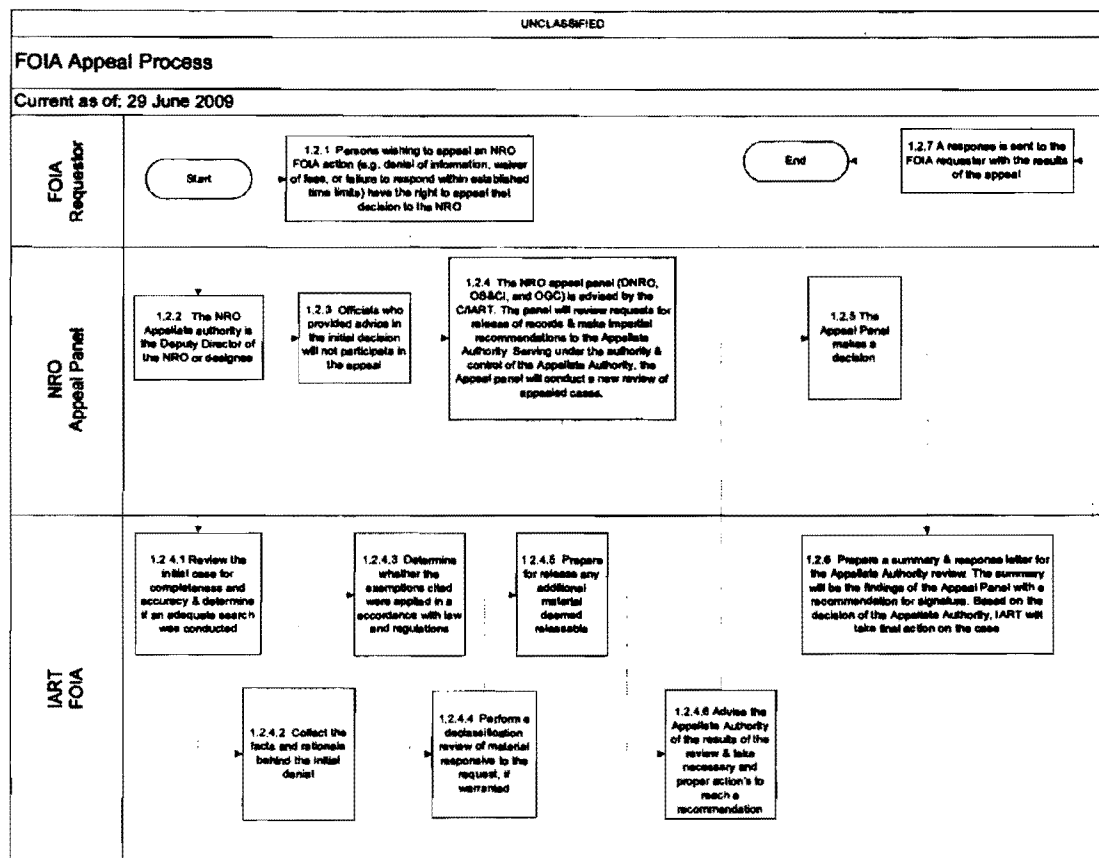
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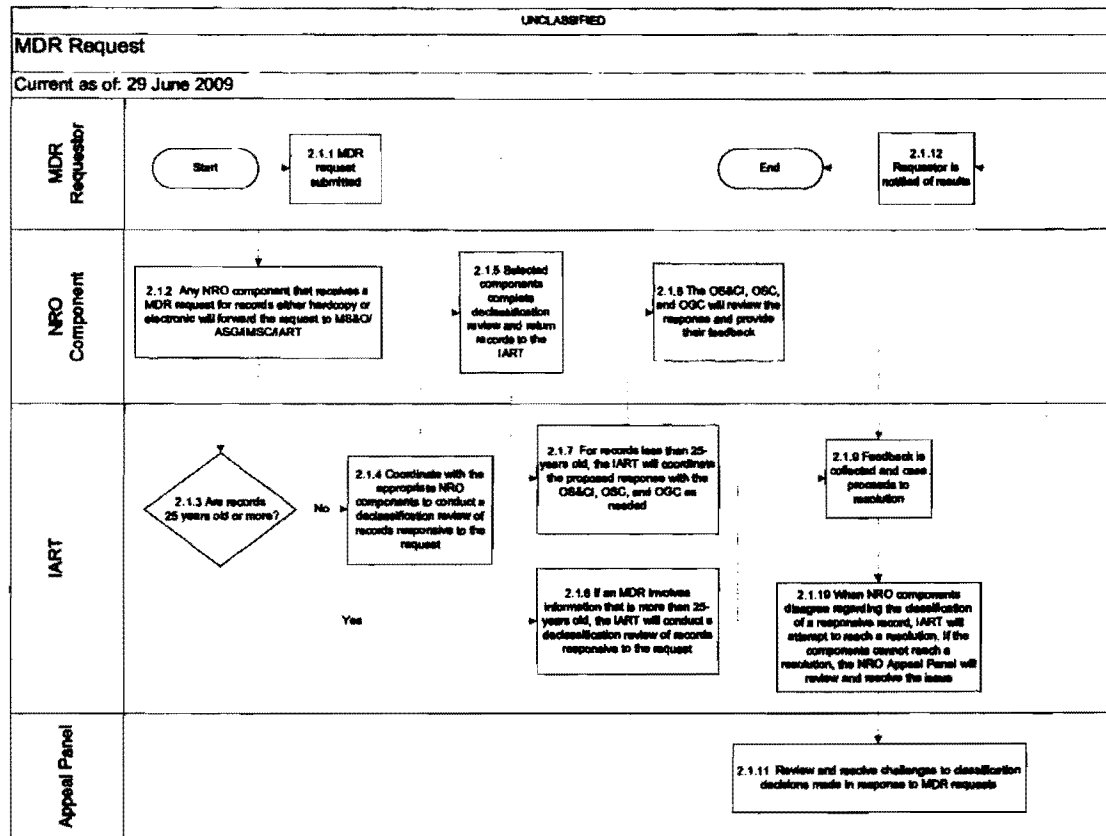


MDR Requests:

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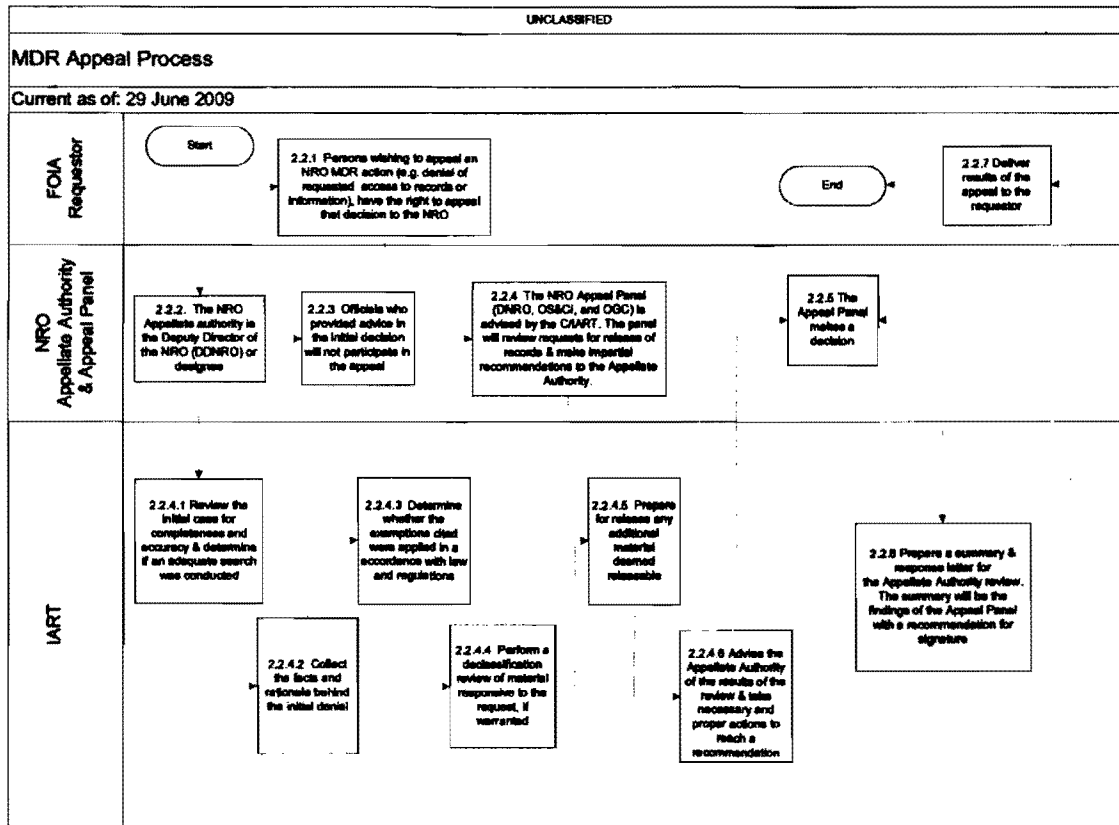
MDR Appeal Process:

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Risk & Internal Control Table

Risk	Internal Control
Risk: The major risk to the 25-Year Automatic and Systematic Declassification Review process is a missed NRO classified equity that is released to the public revealing sources and methods.	<ul style="list-style-type: none"> SMEs conduct reviews for FOIA and MDR cases Multiple reviews of the records prior to release Appeal Panel reviews Coordinate records with OGAs when needed Training for IAOs

SECTION III – CONFIGURATION CONTROL

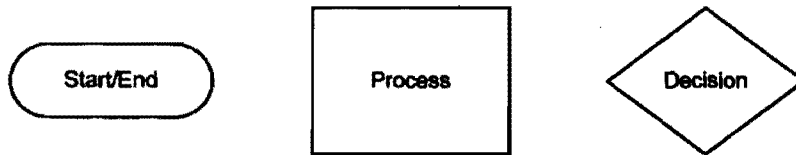
All changes to the Records Management – Information Access and Release: Freedom of Information Act Instruction require CBP owner, Director, Management Services and Operations (D/MS&O), approval.

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APPENDIX A – PROCESS FLOW DIAGRAM LEGEND



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APPENDIX B – GLOSSARY

Access: The review or copying of a record or its parts contained in a system of records by a requester.

Agency: Any executive or military department, other establishment, or entity included in the definition of agency in 5 U.S.C. § 522(f).

Control: Ownership by or authority of the NRO pursuant to federal statute or privilege to regulate official or public access to records.

Disclosure: The authorized transfer of any personal information from a system of records by any means of communication to any person, private entity, or government agency other than the subject of the record, the subject's designated agent, or the subject's legal guardian.

Freedom of Information Act (FOIA): Law enacted in 1966 to promote public trust and an informed citizenry as well as openness in federal agencies. Upon receipt of a FOIA request, federal agencies are required to search for documents responsive to the request.

Individual or Requester: A living citizen of the U.S. or an alien lawfully admitted to the U.S. for permanent residence and to whom a record might pertain. The legal guardian or legally authorized agent of an individual has the same rights as the individual and may act on his behalf. No rights are vested in the representative of a dead person or in persons acting in an entrepreneurial (for example, sole proprietorship or partnership) capacity.

Interested Party: Any official in the executive (including military), legislative, or judicial branches of government, U.S. or foreign, or U.S. Government contractor who, in the sole discretion of the NRO, has a subject matter or physical interest in the documents or information at issue.

Maintain (when used in connection with records): To collect, use, store, disclose, retain, or disseminate.

Mandatory Declassification Review (MDR): The means by which any individual, regardless of nationality, or entity can request any government agency to review classified information for declassification, regardless of its age or origin, subject to certain limitations set forth in E.O. 12958, as amended.

Originator: The NRO employee or contractor who created the document at issue or his successor in office or any official who has been delegated release or declassification authority pursuant to law.

Personal Information: Information about any individual that is intimate or private to the individual, as distinguished from 'corporate information' which is in the public domain and related solely to the individual's official functions or public life (i.e., employee's name, job title, work phone, grade/rank, and job location).

Privacy Act Coordinator: The NRO C/IART who serves as the NRO manager of the information review and release program instituted under the Privacy Act.

Record: Any item, collection, or grouping of information about an individual that is maintained by the NRO. This includes, but is not limited to, the individual's education, financial transactions, medical history, and criminal and employment history. To qualify as a record the information must contain the individual's name or identifying number (such as Social Security Number or employee number), symbol, or other identifying item assigned to the individual, such as fingerprint, voice print, or photograph. Records include data about individuals that are stored in computers.

Responsive Record: Those documents or records that the NRO has determined to be within the scope of a Privacy Act request.

Review and Redaction Guide (RRG): Declassification guide written specifically for information that is 25 years old or older. The guide is updated annually and approved by the DNRO.

Routine Use: The disclosure of a record outside the DoD for a use that is compatible with the purpose for which the information was collected and maintained by the NRO. Routine use encompasses not only common or ordinary use, but also all the proper and necessary uses of the record even if such uses occur infrequently. All routine uses must be published in the Federal Register.

System Managers: Officials who have overall responsibility for a Privacy Act system of records.

System Notice: The official public notice published in the Federal Register of the existence and general content of the system of records.

System of Records: A group of any records under the control of the NRO from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

Working Days: Days when the NRO is operating (and specifically excludes Saturdays, Sundays, and legal public holidays).

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APPENDIX C – REFERENCES

1. 5 United States Code (U.S.C.) § 552, Freedom of Information Act of 1966, as amended
2. 5 U.S.C. Part 1 Ch. 5, Administrative Procedures Act
3. 32 Code of Federal Regulations, Part 2001, Information Security Oversight Office, Classified National Security Information
4. Executive Order (E.O.) 12958, Classified National Security Information, as amended by E.O. 13292, 25 March 2003
5. E.O. 13392, Improving Agency Disclosure of Information, 19 December 2005
6. DoD Directive 5400.07, DoD Freedom of Information Act (FOIA) Program, 2 January 2008
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9. DoD 5200.1-R, Section 4, Mandatory Review for Declassification, 14 January 1997
10. NRO Corporate Business Process, Records Management – 90, 31 March 2009

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