

Agency Review Package

Additions to Information Access and Protection Records (GRS 4.2)

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National Archives and Records Administration
Office of the Chief Records Officer
June 6, 2018

[Additions to] GENERAL RECORDS SCHEDULE 4.2: Information Access and Protection Records

Item	Records Description		Disposition Instruction	Disposition Authority
001	<p>FOIA, Privacy Act, and classified documents administrative records. Revised item</p> <p>Records on managing information access and protection activities. Records include:</p> <ul style="list-style-type: none"> correspondence related to routine implementation of the FOIA and Privacy Act and administration of document security classification associated subject files feeder and statistical reports <p>Exclusion: This item does not cover records documenting policies and procedures accumulated in offices having agency-wide responsibilities for FOIA, Privacy Act, and classified documents. These records must be scheduled by the agency on an agency-specific schedule.</p> <p>Supersedes: DAA-GRS-2016-0013-0003</p>		<p>Temporary. Destroy when 3 years old, but longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0001
010--020	[No change]			
030	<p>Information access and protection operational records.</p>	<p>Records tracking and controlling access to protected information. Revised item</p> <p>Includes:</p> <ul style="list-style-type: none"> records documenting receipt, internal routing, dispatch, or destruction of classified and controlled unclassified records tracking databases and other records used to manage overall program requests and authorizations for individuals to have access to classified and controlled unclassified records and information <p>Supersedes: DAA-GRS-2016-0002-0002</p>	<p>Temporary. Destroy 2 years after last form entry, reply, or submission; or when associated documents are declassified or destroyed; or when authorization expires; whichever is appropriate. Longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0002
031--032	[No change]			
040	<p>Accounting for and control of access to records requested under FOIA, PA, and MDR. Revised item</p> <p>Records documenting identity, internal routing, control points, and accountability for information relating to access requests. Includes:</p>		<p>Temporary. Destroy or delete 5 years after date of last entry or final action by agency, as</p>	DAA-GRS-2018-000x-0003

Item	Records Description	Disposition Instruction	Disposition Authority
	<ul style="list-style-type: none"> • forms, registers, ledgers, logs, and tracking systems documenting requester identity and contact information, request date, and nature or purpose of request • inventories • forms accompanying documents to ensure continuing control, showing names of people handling the documents, inter-office routing, and comparable data • agent and researcher files <p>Supersedes: DAA-GRS-2016-0002-0004</p>	appropriate, but longer retention is authorized if required for business use.	
050-- 061	[No change]		
065	<p>Privacy complaint files. New item</p> <p>Records of privacy complaints (and responses) received in these categories:</p> <ul style="list-style-type: none"> • process and procedural (consent, collection, and appropriate notice) • redress (non-Privacy Act inquiries seeking resolution of difficulties or concerns about privacy matters) • operational (inquiries regarding Privacy Act matters not including Privacy Act requests for access and/or correction) • complaints referred to another organization 	Temporary. Destroy 3 years after resolution or referral, as appropriate, but longer retention is authorized if required for business use.	DAA-GRS-2018-000x-0004
070-- 180	[No change]		
<p>Controlled Unclassified Information (CUI) program records. New section</p> <p>Exclusion 1: Records of CUI self-inspections (GRS 5.7, item 020 covers these).</p> <p>Exclusion 2: Records of annual program reports to the CUI Executive Agent (GRS 5.7, item 050 covers these).</p> <p>Exclusion 3: Records of the Controlled Unclassified Information Executive Agent at the National Archives (NARA must schedule these records separately).</p>			
190	<p>CUI program implementation records.</p> <p>Records of overall program management. Includes:</p> <ul style="list-style-type: none"> • agency policy and procedure planning records • agency submissions of laws, regulations, or Government-wide policy for inclusion in the CUI Registry, which the agency proposes to use to designate unclassified information for safeguarding or establish dissemination controls 	Temporary. Destroy or delete when 7 years old, but longer retention is authorized if required for business use.	DAA-GRS-2018-000x-0005

Item	Records Description	Disposition Instruction	Disposition Authority
	<ul style="list-style-type: none"> • agency submissions to the CUI Executive Agent proposed law, regulation, or Government-wide policy that would establish, eliminate, or modify a category or subcategory of CUI, or change information controls applicable to CUI • correspondence with CUI Executive Agent <p>Exclusion: CUI directives and formal policy documents (agencies must schedule these separately).</p>		
191	<p>CUI information sharing agreements. Agreements whereby agencies agree to share CUI with non-executive branch entities (<i>e.g.</i> contractors) and foreign entities that agree to protect the CUI.</p>	<p>Temporary. Destroy or delete 7 years after canceled or superseded, but longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0006
192	<p>Records of waivers of CUI requirements. Description of and rationale for waivers, alternate steps taken to ensure sufficient protection of CUI, and notification of waiver to authorized recipients and the public.</p>	<p>Temporary. Destroy or delete when waiver is rescinded, system is no longer in use, or all affected records are destroyed, as applicable, but longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0007
193	<p>CUI training and briefing records. <i>Reviewers: do you think GRS 2.6, item 010 (destroy when 3 years old) would adequately cover these records in lieu of this item?</i></p> <p>Materials for training personnel with access to CUI on designating CUI, relevant CUI categories and subcategories, the CUI Registry, associated markings, and policies and procedures regarding safeguarding, disseminating, and decontrolling CUI. Includes:</p> <ul style="list-style-type: none"> • logistics and coordination documents • tracking and reporting files • registration and attendance records • syllabi, presentations, instructor guides, handbooks, and lesson plans • course content working files 	<p>Temporary. Destroy when 5 years old, or 5 years after superseded or obsolete, whichever is appropriate, but longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0008

Item	Records Description	Disposition Instruction	Disposition Authority
194	<p>Records of requests for decontrol and challenges to CUI designations. Notices from authorized holders of CUI requesting decontrol or challenging CUI marking as incorrect (either improperly assigned or lacking), responses to notifications, records of adjudication, and records of dispute resolution if adjudication is appealed.</p>	<p>Temporary. Follow the disposition instructions approved for the CUI-marked records or destroy 6 years after change in CUI status, whichever is sooner.</p>	DAA-GRS-2018-000x-0009
195	<p>Records of CUI misuse. Allegations of CUI misuse, records of internal investigation, communications with and reports of findings from the CUI Executive Agent, and records of corrective actions.</p> <p>Exclusion: If the agency assigns investigation of allegations of CUI misuse to its Inspector General (IG), records created in the IG office are covered under the agency schedule for IG records.</p>	<p>Temporary. Destroy or delete 5 years after completion of investigation or completion of all corrective actions, whichever is later, but longer retention is authorized if required for business use.</p>	DAA-GRS-2018-000x-0010



NATIONAL ARCHIVES

Date: June 4, 2018
Appraiser: Galen R. Wilson, ACRS
Agency: General Records Schedules (GRS)
Subject: DAA-GRS-2018-000x

INTRODUCTION

Schedule Overview

Additions and alterations to GRS 4.2: Information Access and Protection Records

Additional Background Information

This schedule alters three items in, and adds seven new items to, GRS 4.2.

Items 001, 030 and 040 are edited at the request of the Department of Energy (DOE) and the Defense Intelligence Agency (DIA). New item 065 was suggested by NARA's Office of the General Counsel.

Six new items (190-195) cover records created and collected by agencies in the course of managing Controlled Unclassified Information (CUI) programs. The CUI designation was introduced by a Presidential memorandum on May 9, 2008, to replace an alphabet soup of overlapping and sometimes idiosyncratic categories such as For Official Use Only (FOUO), Sensitive but Unclassified (SBU) and Law Enforcement Sensitive (LES). The memorandum designated the National Archives to be responsible for overseeing and managing CUI framework implementation. The memorandum was superseded on November 4, 2010, by Executive Order 13556, which expanded guidelines to improve uniformity across all Federal agencies. The program is now codified in the Code of Federal Regulations under 32 CFR Part 2002. Version 1.1 (*i.e.* the first edition) of *Marking Controlled Unclassified Information* was published by NARA's Information Security Oversight Office (ISOO) on December 6, 2016.

These items were drafted in response to nearly simultaneous but independent requests from the records officers of the Department of Energy and Office of Government Ethics. These items were drafted in consultation with ISOO and NARA's General Counsel Office. The schedule addresses records that are likely to be created by agencies pursuing the activities required of them by 32 CFR Part 2002. ISOO is excluded (see header Exclusion 3) from using this schedule because administering the CUI program Government-wide is its mission. Therefore, ISOO must schedule its records separately. Managing this program is an administrative duty at all other Government agencies; this schedule covers the records they accumulate.

Overall Recommendation

I recommend approval of this schedule.

APPRAISAL

Item 0001 (GRS 4.2, item 001): FOIA, Privacy Act, and classified documents administrative records.

NATIONAL ARCHIVES *and*
RECORDS ADMINISTRATION

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DAYTON, OH 45439-1969
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This item is altered only by removing reference to “control and accounting for classified documents” in the first bullet, as this clause duplicated this schedule’s item 030.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. These are administrative records.

*Previously approved as temporary:

DAA-GRS-2016-0013-0003

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. No change is made in the previously-approved retention period.

Media Neutrality

Approved

Item 0002 (GRS 4.2, item 030): Records tracking and controlling access to protected information.

Item 0003 (GRS 4.2, item 040): Accounting for and control of access to records requested under FOIA, PA, and MDR.

These items move records documenting control of classified and controlled unclassified (CUI) records from item 040 to item 030. Item 030 also eliminates this former bullet: “records documenting receipt, internal routing, dispatch, and destruction of unclassified records.” Both DOE and DIA pointed out that this bullet described nonexistent records, since such activity is undertaken only with records under some level of classification.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. The records are administrative in nature.

*Previously approved as temporary:

DAA-GRS-2016-0002-0002

DAA-GRS-2016-0002-0004

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. When GRS 4.2 was first drafted in 2013, it merged records tracking movement of top-secret-classified records (old GRS 18) and records documenting response to FOIA, Privacy Act, and Mandatory Declassification requests (old GRS 14) into a single item: 040. The rationale was that all of these had been 5-year records in the old GRS. But new item 040’s title was expanded to include not just top secret but also records tracking movement of *all other* classified and CUI records, which had been 2-year records in old GRS 18. DOE and DIA made two requests. First, that the 2-year retention for records accounting for movement of classified (other than top secret) records be restored. Second, that we reduce the retention for records documenting movement of top secret records to 2 years as well. They stated their own agencies no longer require documenting control of top secret records differently from documenting control of any other classified record. The days of the paper control log noting when records were received and when records were examined are long past. The vast majority of classified and CUI records are now electronic. Access to them is governed not by control logs but rather by e-system permissions.

Media Neutrality

Approved

Item 0004 (GRS 4.2, item 065): Privacy complaint files.

This is a new item. It differs from GRS 4.2 items 060 and 061 in that those items cover records documenting inappropriate release of information protected by the Privacy Act, while item 065 concerns less formal complaints that cover a wider spectrum than just Privacy Act infractions. This item also covers allegations of an erroneous release of Privacy records that, because they turn out not to be true, do not initiate an erroneous release case file.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. The records are administrative in nature.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. These records must be retained at least 2 years per the statute of limitations at 5 USC 552a(g)(5). Three-year retention has become a standard retention for administrative records of short-term interest. Three years is adequate for any complaint to be reactivated before the records documenting it are destroyed.

Media Neutrality

Approved

Item 0005 (GRS 4.2, item 190): CUI program implementation records.

This item covers a laundry list of administrative records created and collected in the course of general management of a CUI program.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. These are administrative records. Despite the high profile of the subject matter, what is likely to be historically important is what records are identified as CUI, not the records documenting the nuts and bolts of how the program was carried out.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. Seven-year retention is recognized across government as appropriate for records that may be required for litigation.

Media Neutrality

Approved

Item 0006 (GRS 4.2, item 191): CUI information sharing agreements.

These records are a subset of administrative records described in item 0001 (190). They are segregated to a separate item only because the cutoff toggle by which the retention clock starts ticking is a specific event taking place on a not-yet-knowable date.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. The records are administrative in nature.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. Seven years might seem, on first blush, to be rather short for records documenting the sharing of sensitive information with foreign businesses in an uncertain world where the roles of ally and enemy too often and too quickly swap. But these agreements are likely to last for many years. The 7-year countdown to destruction does not begin until an agreement is superseded or canceled. Seven years is adequate for problems with a completed project and its associated sharing agreement to surface. If such a problem were to materialize, sharing agreement records would, of course, be caught up in an investigation and therefore frozen (*i.e.*, not destroyed until the matter is adjudicated).

Media Neutrality

Approved

Item 0007 (GRS 4.2, item 192): Records of waivers of CUI requirements.

This item covers the only series of records which 32 CFR 2008 specifically requires agencies to create. Per section 2002.38, the Senior Agency Official in charge of an agency's CUI program "must retain a record of each waiver, include a description of all current waivers and waivers issued during the preceding year in the annual report to [ISOO] along with the rationale for each waiver and the alternate steps the agency takes to ensure sufficient protection of CUI, and notify authorized recipients and the public of these waivers."

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. The records are administrative in nature.

*Captured elsewhere in permanent records. N1-64-00-3, item 3, Agency files.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. A waiver's business value is pretty much finished when it is rescinded or the records it describes are destroyed. Since all waivers must be documented in each annual report to ISOO, a record of all past waivers remains in reports sent to ISOO, which are permanent under N1-64-00-3, item 3.

Media Neutrality

Approved

Item 0008 (GRS 4.2, item 193): CUI training and briefing records.

Training and briefing agency staff with access to CUI on all aspects of dealing with agency vagaries is mandated by 32 CFR 2002.30. Section 2002.30(c) states that "agencies must train employees on these matters when the employees first begin working for the agency and at least once every two years thereafter."

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. These are administrative records.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. Five-year retention is in excess of training in non-mission subject areas (3 years: GRS 2.6, item 010, DAA-GRS-2016-0014-0001). This time period ensures documentation of every staff member's current and immediately previous training/briefing, covered under item bullet "registration and attendance records."

Media Neutrality

Approved

Item 0009 (GRS 4.2, item 194): Records of requests for decontrol and challenges to CUI designations.

Per 32 CFR 2002.50, "authorized holders of CUI who, in good faith, believe that its designation as CUI is improper or incorrect, or who believe they have received unmarked CUI, should notify the disseminating agency of this belief." The section then outlines how this process is carried out, even to the point of ensuring anonymity for those who bring a challenge.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. The records are administrative in nature.

Adequacy of Proposed Retention Period

Adequate from the standpoint of legal rights and accountability. Requesting that a CUI designation be lifted is akin to requesting that records be declassified (see GRS 4.2, item 020, DAA-GRS-2016-0002-0001). Thus, this item reflects the 6-year retention of the other. However, appeals to denied requests to decontrol CUI are adjudicated by the President rather than the courts. Unlike GRS 4.2, item 020, this disposition ignores adjudication as a parameter because if a request is denied, no change in CUI status happens until adjudication is complete. Disposition with the associated CUI-marked records themselves, if sooner than 6 years, makes an abundance of sense.

Media Neutrality

Approved

Item 0010 (GRS 4.2, item 195): Records of CUI misuse.

Per 32 CFR 2002.54, agencies must establish processes and criteria for reporting and investigating CUI misuse, and the CUI Executive Agent in NARA must report findings on CUI misuse to the offending agency for action. The CFR does not state how investigations are to be carried out nor how long records of an investigation must be retained.

Proposed Disposition

Temporary

Appropriateness of Proposed Disposition

Appropriate

Appraisal Justification

*Has little or no research value. Misuse of CUI is a serious issue, but administrative tracking of such misuse does not create permanent records. Records of national security information misuse (GRS 5.6, item 200, DAA-GRS-2017-0006-0027) are retained for only 5 years on the assumption that serious cases are passed along for investigation to an Inspector General (IG), the Department of Justice, or the Department of Defense. Per that item's Exclusion 2, the investigative office must schedule its investigation records. In much the same fashion, an exclusion to this item tacitly places any potentially permanent records with an agency's IG office.

Adequacy of Proposed Retention Period

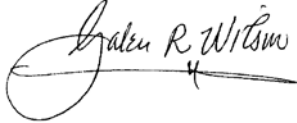
Adequate from the standpoint of legal rights and accountability. This retention matches GRS 5.6, item 200 (information security violations records). The national-security aspect of these records justifies additional retention relative to records of other in-house—but more low-key—investigatory activities in the GRS:

GRS 5.6, item 050 (DAA-GRS-2017-0006-0006), credit card abuse and postal fraud, 3 years,
GRS 5.6, item 100 (DAA-GRS-2017-0006-0013), accidents and incidents, 3 years.

Also, note that the CUI Executive Agent's records are not covered by this schedule. The opportunity for longer retention for cases investigating CUI misuse lies with that office, which must be covered by a NARA agency-specific records schedule.

Media Neutrality

Approved

A handwritten signature in black ink that reads "Galen R. Wilson". The signature is written in a cursive style with a large, looping initial "G" and a horizontal line extending to the right.

GALEN R. WILSON
Senior Records Analyst