

## Request for Records Disposition Authority

Records Schedule Number           DAA-0468-2013-0011

Schedule Status                    Modified Approved Version

  

Agency or Establishment           Department of Health and Human Services

Record Group / Scheduling Group   General Records of the Department of Health and Human Services

Records Schedule applies to       Major Subdivision

Major Subdivision                 Office of the Secretary (OS)

Minor Subdivision                 Office of the Inspector General (OIG)

Schedule Subject                  Records of the Office of the Counsel to the Inspector General (OCIG) of Health and Human Services

Internal agency concurrences will be provided       Yes

Background Information           Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG’s internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

### Item Count

Number of Total Disposition Items	Number of Permanent Disposition Items	Number of Temporary Disposition Items	Number of Withdrawn Disposition Items
6	1	5	0

### GAO Approval

## Outline of Records Schedule Items for DAA-0468-2013-0011

Sequence Number	
1	Legal Counsel Case Files
1.1	Advice Branch Case Files
1.1.1	Litigation Case Files Disposition Authority Number: DAA-0468-2013-0011-0001
1.1.2	Subpoenas Disposition Authority Number: DAA-0468-2013-0011-0002
1.1.3	Legal Opinions Disposition Authority Number: DAA-0468-2013-0011-0003
1.2	Administrative and Civil Remedies Branch (ACRB) Case Files
1.2.1	Case Files Disposition Authority Number: DAA-0468-2013-0011-0004
1.3	Industry Guidance Branch Case Files
1.3.1	Case Files Disposition Authority Number: DAA-0468-2013-0011-0005
1.4	Significant Legal Case Files Disposition Authority Number: DAA-0468-2013-0011-0006

## Records Schedule Items

Sequence Number	
1	<p><b>Legal Counsel Case Files</b> These files include advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. Files are created by HHS-OIG staff attorneys.</p>
1.1	<p><b>Advice Branch Case Files</b> The Advice Branch provides expert legal advice and representation to the Inspector General in the exercise of his responsibilities under the Inspector General Act of 1978, the Health Insurance Portability and Accountability Act, and other legal authorities. To this end, the Advice Branch ensures the legal sufficiency of OIG findings and recommendations; advises OIG managers on administrative and employment matters, including obligations under Federal ethics laws; defends the OIG before administrative tribunals and Federal courts; advises investigators on subpoenas, electronic surveillance and other investigative tools; and provides legal training to OIG managers and staff. These files are used for providing advice to HHS-OIG staff and entities in the health care industry.</p>
1.1.1	<p><b>Litigation Case Files</b></p> <p>Disposition Authority Number      DAA-0468-2013-0011-0001</p> <p>Case files accumulated by the Advice Branch to document litigation before administrative agencies and Federal courts, and in certain circumstances, other personnel actions (e.g., agency grievance decisions). These case files include correspondence, discovery, legal briefs and other filings, affidavits and exhibits, decisions of administrative and federal judges, appeals, settlement agreements and related materials. These files often relate to litigation involving employees or former employees of HHS-OIG and sometimes arise out of disciplinary or performance based personnel actions. Consequently, the files sometimes include copies of proposals and decisions on disciplinary actions, performance appraisals, performance-based adverse actions and performance improvement plans; however, the original copies of those documents are typically maintained by the component where the employee at issue was/is employed.</p> <p>Final Disposition                      Temporary</p> <p>Item Status                              Active</p> <p>Is this item media neutral?          Yes</p> <p>Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?      Yes</p>

1.1.2	Do any of the records covered by this item exist as structured electronic data?	No
	GRS or Superseded Authority Citation	N1-468-00-1, Item 3 a. & b.
	<b>Disposition Instruction</b>	
	Cutoff Instruction	Cut off at end of fiscal year in which case is terminated.
	Retention Period	Destroy 10 year(s) after cutoff
	<b>Additional Information</b>	
	GAO Approval	Not Required
	<b>Subpoenas</b>	
	Disposition Authority Number	DAA-0468-2013-0011-0002
	<b>Subpoenas prepared for the use of investigation commenced by OIG relating to allegations of fraud and abuse against the HHS and any Federal health care programs.</b>	
	Final Disposition	Temporary
	Item Status	Active
	Is this item media neutral?	Yes
	Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?	Yes
Do any of the records covered by this item exist as structured electronic data?	No	
GRS or Superseded Authority Citation	N1-468-00-1, Item 3 c.	
<b>Disposition Instruction</b>		
Cutoff Instruction	Cut off at the end of the fiscal year in which the case is closed or the issue is resolved.	
Retention Period	Destroy 10 year(s) after cutoff	
<b>Additional Information</b>		
GAO Approval	Not Required	
1.1.3	<b>Legal Opinions</b>	
	Disposition Authority Number	DAA-0468-2013-0011-0003

Legal Opinions are written documents prepared by an OCIG attorney for an OIG client, setting out the attorney's understanding of the law as applicable to a particular set of facts. Generally, the legal opinion will conclude whether the underlying action is legally permissible (or not) and will explain the reasons for this conclusion.

Final Disposition Temporary

Item Status Active

Is this item media neutral? Yes

Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes

Do any of the records covered by this item exist as structured electronic data? No

GRS or Superseded Authority Citation N1-468-00-1, Item 3 d.

#### Disposition Instruction

Cutoff Instruction Cut off at the end of the fiscal year in which the case is closed or the issue is resolved

Retention Period Destroy 10 year(s) after cutoff

#### Additional Information

GAO Approval Not Required

1.2

#### Administrative and Civil Remedies Branch (ACRB) Case Files

The ACRB imposes program exclusions and civil monetary penalties on health care providers deemed to have violated Federal health care statutes and regulations. ACRB also represents OIG in cases arising under the civil False Claims Act, and develops and monitors corporate integrity agreements. Files are used in OIG monitoring of health care industry compliance with Federal health care laws and in cases brought to court by the U.S. Department of Justice.

1.2.1

#### Case Files

Disposition Authority Number DAA-0468-2013-0011-0004

Case Files that consist of court pleadings, correspondence, memorandums, studies, appraisals, court decisions, settlement agreements, corporate integrity agreements, voluntary disclosures, exclusion appeals, administrative sanctions, and similar documents. These files relate to primary program areas of HHS.

Final Disposition Temporary

Item Status Active

	Is this item media neutral?	Yes
	Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?	Yes
	Do any of the records covered by this item exist as structured electronic data?	No
	GRS or Superseded Authority Citation	N1-468-00-1, Item 3 c.
	<b>Disposition Instruction</b>	
	Cutoff Instruction	Cut off at end of fiscal year in which case is terminated.
	Retention Period	Destroy 20 year(s) after cutoff
	<b>Additional Information</b>	
	GAO Approval	Not Required
1.3	<b>Industry Guidance Branch Case Files</b>	
	The mission of the Industry Guidance Branch is to provide clear, useful, and timely guidance to industry and government stakeholders on how to comply with Federal health care laws.	
1.3.1	<b>Case Files</b>	
	Disposition Authority Number	DAA-0468-2013-0011-0005
	<b>Case Files relating to advisory opinions, fraud alerts, safe harbors, legal updates, or similar documents.</b>	
	Final Disposition	Temporary
	Item Status	Active
	Is this item media neutral?	Yes
	Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?	Yes
	Do any of the records covered by this item exist as structured electronic data?	No
	GRS or Superseded Authority Citation	N1-468-00-1, Item 3.a
	<b>Disposition Instruction</b>	
	Cutoff Instruction	Cutoff at the end of Fiscal Year when case is closed.

1.4

Retention Period	Destroy 7 year(s) after cutoff
<b>Additional Information</b>	
GAO Approval	Not Required
<b>Significant Legal Case Files</b>	
Disposition Authority Number	DAA-0468-2013-0011-0006
Office of the Counsel of the Inspector General legal case files that result in stories by national media outlets, Congressional investigations, or result in substantive changes in HHS policies and procedures.	
Final Disposition	Permanent
Item Status	Active
Is this item media neutral?	Yes
Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?	Yes
Do any of the records covered by this item exist as structured electronic data?	No
GRS or Superseded Authority Citation	N1-468-00-1, Item 3 d.
<b>Disposition Instruction</b>	
Cutoff Instruction	Cut off files at end of fiscal year in which case is closed
Transfer to the National Archives for Accessioning	Transfer to the National Archives 15 year(s) after cutoff
<b>Additional Information</b>	
What will be the date span of the initial transfer of records to the National Archives?	Unknown To be discussed at the on-site appraisal meeting
How frequently will your agency transfer these records to the National Archives?	Every 4 Years

## Agency Certification

I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal in this schedule are not now needed for the business of the agency or will not be needed after the retention periods specified.

## Signatory Information

Date	Action	By	Title	Organization
06/21/2013	Certify	Elaine Pankey	HHS Office of the Secretary Records Officer	Offices of the Secretary, Assistant Secretary for Administration - Office of the Chief Information Officer
02/12/2014	Return for Revision	Tom Cotter	Appraiser	National Archives and Records Administration - Records Management Services
02/12/2014	Submit For Certification	Elaine Pankey	HHS Office of the Secretary Records Officer	Offices of the Secretary, Assistant Secretary for Administration - Office of the Chief Information Officer
02/12/2014	Certify	Elaine Pankey	HHS Office of the Secretary Records Officer	Offices of the Secretary, Assistant Secretary for Administration - Office of the Chief Information Officer
07/24/2014	Submit for Concurrence	Tom Cotter	Appraiser	National Archives and Records Administration - Records Management Services
09/03/2014	Return to Submitter	Margaret Hawkins	Director of Records Management Services	National Records Management Program - Records Management Services
09/03/2014	Submit for Concurrence	Tom Cotter	Appraiser	National Archives and Records Administration - Records Management Services



09/04/2014	Concur	Margaret Hawkins	Director of Records Management Services	National Records Management Program - Records Management Services
09/04/2014	Concur	Laurence Brewer	Director, National Records Management Program	National Archives and Records Administration - National Records Management Program
09/04/2014	Approve	David Ferriero	Archivist of the United States	Office of the Archivist - Office of the Archivist