

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**HHS HAS MADE PROGRESS IN  
PROPERLY CLASSIFYING  
DOCUMENTS; HOWEVER,  
NEW ISSUES SHOULD BE  
ADDRESSED**



**Suzanne Murrin  
Deputy Inspector General  
for Evaluation and Inspections**

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## Why This Review Matters

Classification is an important tool that allows the Federal government to protect information that might damage national security; however, over-classification may pose risks to national security, too. Over-classification may prevent Federal agencies from sharing information internally and with other agencies, potentially hindering efforts to identify possible risks to national security. The use of portion markings may reduce over-classification by permitting access to those portions of a classified document that are less sensitive than the overall document classification. The Reducing Over-Classification Act of 2010 requires Federal agencies to decrease over-classification.

## How We Did This Review

We assessed HHS's progress in implementing the remaining open recommendation from OIG's May 2013 reports. To do this, we reviewed two sets of documents: the seven documents OIG identified in our previous report that did not include the required portion markings, and a newly selected sample of 51 classified documents we assessed to determine whether they were classified in accordance with requirements.

## HHS Has Made Progress in Properly Classifying Documents; However, New Issues Should Be Addressed

### What We Found

In May 2013, the Department of Health and Human Services (HHS) Office of Inspector General (OIG) published two reports on the Department's classification program. The reports contained four recommendations. Three of the recommendations were implemented prior to the current review; the fourth recommendation was implemented as a result of the current review. The graphic below describes the four recommendations.

In our current review we found that until August 2016, HHS had not taken appropriate action to address required portion markings for all of the previously reviewed documents, as OIG had recommended in May 2013. Our review of a newly selected sample of classified documents found that the one document originally classified in FY 2015 did not include the reason for classification or the position of the individual who classified the document. Additionally, 28 percent of the derivatively classified documents from a newly selected sample did not include the position of the person who classified the documents.

### What We Recommend

To address the issues OIG identified in this current review, we recommend that the Office of Security and Strategic Information (OSSI), working on behalf of the Office of the Secretary, (1) apply the reason for classification and classifier position to the reviewed originally classified document, and (2) reiterate training on required classifier identification to individuals who classify information. OSSI concurred with the first recommendation and stated that prior training fully covered the second recommendation.



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## **OBJECTIVES**

1. To assess whether the Department of Health and Human Services (HHS) addressed the unimplemented recommendation from the Office of Inspector General's (OIG) previous reports regarding the proper use of portion markings in classified documents.
2. To assess whether HHS classified documents in accordance with Federal requirements.

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## **BACKGROUND**

Classification is an important tool that allows the Federal government to protect information that might damage national security; however, over-classification reduces government transparency and may pose risks to our national security. In addition to making government less transparent to the public, over-classification may prevent Federal agencies from sharing information internally, with other agencies, and with State and local law enforcement, potentially complicating efforts to identify risks to national security. For example, the 9/11 Commission found that over-classification and inadequate information sharing contributed to the Government's failure to prevent the terror attacks on September 11, 2001.<sup>1</sup>

### **Federal Requirements**

The Reducing Over-Classification Act of 2010 (the Act), Executive Order No. 13526, and its implementing Directive<sup>2</sup> have directed all Federal agencies to reduce unnecessary classification of information as well as classification of information at a higher and more restrictive level than necessary.<sup>3</sup> These directives intend to promote information sharing across agencies; with State, local, and tribal governments; and with the public.<sup>4</sup> The Act also aims to promote greater government transparency, and Executive Order No. 13526 states that the country's democratic principles require that the public be informed of the activities of their government.

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<sup>1</sup> National Commission on Terrorist Attacks Upon the United States: Hearing before the Subcommittee on National Security, Emerging Threats and International Relations Committee on Government Reform, U.S. House of Representatives, 109th Cong. (2005) (Testimony of Richard Ben-Veniste).

<sup>2</sup> 32 CFR pt. 2001.

<sup>3</sup> P.L. 111-258.

<sup>4</sup> S. Rept. No. 111-200, at 1-2 (2010).

The Act requires Inspectors General to conduct two evaluations; an initial evaluation to assess their respective agency's classification policies and practices and a second evaluation to assess progress made pursuant to the results of the first evaluation.<sup>5</sup> Appendix A includes an excerpt from the Act regarding the required evaluations.

### **Original Classification**

Original classification is defined as an initial determination, in the interest of national security, that information requires protection from unauthorized disclosure.<sup>6</sup> Information may be originally classified if *all* of the following conditions are met:

- an original classification authority (OCA) is classifying the information;<sup>7</sup>
- the information is owned by, produced by or for, or is under the control of the Federal Government;
- the information falls within one or more specific classification categories listed in Appendix B, and
- the OCA determines that unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to national security.<sup>8</sup>

If the information meets all of these conditions, the OCA then must determine the level at which the information should be classified. Information may be classified at one of three levels: (1) "Top Secret," (2) "Secret," or (3) "Confidential."<sup>9</sup> See Appendix C for a definition of each classification level.

*Identification and Markings.* Standard markings must be applied to classified information at the time of original classification.<sup>10</sup> The identification markings must include (1) the name and position, or personal identifier, of the OCA; (2) the agency and office of origin, if not otherwise evident; (3) the reason(s) for the classification (see Appendix B); and (4) declassification instructions. Markings must be uniformly and conspicuously applied to leave no doubt about the

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<sup>5</sup> P.L. 111-258, § 6.

<sup>6</sup> Executive Order No. 13526 § 6.1(ff).

<sup>7</sup> "Original classification authority" is an individual authorized in writing, by the President, the Vice President, agency heads (such as the Secretary), or other officials designated by the President, to classify information in the first instance. Executive Order No. 13526 § 6.1(gg).

<sup>8</sup> Executive Order No. 13526 § 1.1(a).

<sup>9</sup> Executive Order No. 13526 § 1.2(a).

<sup>10</sup> Executive Order No. 13526 § 1.6; 32 CFR § 2001.21.

classified status of the information, the level of protection required, and the duration of classification.<sup>11</sup> These markings are included in what is referred to as the “classification authority block.”

*Portion Markings.* The use of portion markings may reduce over-classification by permitting access to those portions of a classified document that are less sensitive than the overall document classification. The agency originally classifying the document must apply portion markings to each portion of the document.<sup>12</sup> Portion markings include paragraphs, subjects, titles, graphics, tables, charts, bullet statements, classified signature blocks, bullets and other portions within slide presentations, and shall be marked to indicate which portions are classified and which portions are not classified by placing a parenthetical symbol immediately preceding the portion to which it applies.

### **Derivative Classification**

Derivative classification refers to the incorporating, paraphrasing, restating, or generating information that already is classified and marking the material consistent with the classifications applied to the original information.<sup>13</sup> Individuals who apply derivative classification markings need not have original classification authority, but must be identified by name and position, or by personal identifier, in a manner that is immediately apparent for each derivative classification action. Individuals who apply derivative classification markings must observe and respect original classification decisions and carry forward the pertinent classification markings, including the portion markings.<sup>14</sup> Appendix B provides further requirements related to classification. Appendix D provides an example of identification and portion markings on a classified document.

### **HHS’s Classified Information Program**

The Secretary of HHS (Secretary) serves as the OCA for HHS and may classify documents up to the “Secret” classification level.<sup>15</sup> The Secretary has delegated to the Deputy Secretary, the Deputy Assistant Secretary of the Office of Security and Strategic Information (OSSI), and the Associate Deputy Assistant Secretary of

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<sup>11</sup> 32 CFR § 2001.20.

<sup>12</sup> Executive Order No. 13526 § 1.6(5)(c). See also 32 CFR § 2001.21(c).

<sup>13</sup> Executive Order No. 13526 § 6.1(o).

<sup>14</sup> Executive Order No. 13526 § 2.1(b). See also 32 CFR § 2001.22.

<sup>15</sup> Executive Order No. 13526.

OSSI the authority to originally classify and declassify information.<sup>16</sup> OSSI manages and operates HHS's security classification program.

### **Previous OIG Reports and Recommendations Status**

In May 2013, OIG published two reports to fulfill the Act's initial mandate to assess HHS's classification policies and practices. One report assessed whether HHS had adopted, effectively administered, and followed policies regarding classified information. OIG found that HHS adopted policies for classified information that were consistent with Federal requirements.<sup>17</sup> However, not all individuals who have access to and/or classify information received guidance and/or training regarding HHS's classification program. The second report determined whether information was classified in accordance with Federal requirements and identified practices that may have contributed to misclassification of information.<sup>18</sup> OIG found that 7 of the 43 classified documents it reviewed lacked the required portion markings. These OIG reports included four recommendations, with which OSSI, working on behalf of the Office of the Secretary, concurred. Three of the recommendations were implemented prior to the current review, and the fourth recommendation was implemented as a result of the current review. Chart 1 provides information about the status of each recommendation.

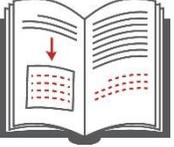
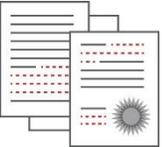
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<sup>16</sup> OSSI, *User Reference for Classified National Security Information*, October 16, 2015.

<sup>17</sup> OIG, *HHS Has Adopted, Administered, and Generally Followed Classified Information Policies* (OEI-07-12-00400), May 2013.

<sup>18</sup> OIG, *Originally and Derivatively Classified Documents Met Most Federal Requirements* (OEI-07-12-00401), May 2013.

**Chart 1: OSSI's Actions to Implement OIG Recommendations**

Recommendation	Status	OSSI Actions to Implement OIG Recommendations
 <p>Clarify who is responsible for ensuring that Classification Security Officers receive training. These individuals are responsible for providing their division with guidance and oversight on the handling and safeguarding of classified information.</p>	 <p>Implemented</p>	<p>In March 2014, HHS's Classified National Security Handbook was revised to specify that the head of each operating or staff division is responsible for ensuring that its respective Classification Security Officer is trained. The handbook was reissued to all Classification Security Officers. In May 2014, OSSI provided the revised handbook as documentation to consider this recommendation fully implemented.</p>
 <p>Ensure that all Classification Security Officers receive guidance and training regarding classified National Security Information.</p>	 <p>Implemented</p>	<p>In fiscal year (FY) 2015, OSSI provided National Security Information training for all Department employees with a security clearance, including Classification Security Officers. In May 2015, OSSI provided the training given to Classification Security Officers as documentation for considering this recommendation fully implemented.</p>
 <p>Ensure that OCAs and individuals who derivatively classify information receive guidance and training regarding required portion markings.</p>	 <p>Implemented</p>	<p>In FY 2015, all four OCAs received training regarding their responsibilities. OSSI provided copies of this training as support for considering this portion of the recommendation implemented. OSSI also provided training to individuals who derivatively classify information. This training included information about required portion markings. In April 2016, OSSI provided copies of this training and training logs as support for considering this portion of the recommendation implemented. As of April 2016, OIG considered this recommendation fully implemented.</p>
 <p>Take appropriate action to apply the required portion markings to reviewed classified documents.</p>	 <p>Implemented</p>	<p>In May 2014 and July 2016, OSSI officials stated that they had reviewed and applied the missing portion markings to classified documents that did not include the required markings. However, during our onsite reviews in May and early August 2016, OIG did not find evidence that OSSI took appropriate action. During a subsequent August 2016 onsite review, OIG worked with OSSI to address the portion markings for the three documents. OIG considers this recommendation fully implemented.</p>

Source: OIG review of OSSI's actions to implement recommendations, 2016.

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## **METHODOLOGY**

### **Scope**

The Act requires a second evaluation, which must be completed by September 30, 2016, to review progress made pursuant to the results of the first evaluation.<sup>19</sup> This report reviews the one remaining unimplemented recommendation OIG made in 2013. Specifically, this report provides information about whether HHS took appropriate action to address required portion markings for previously reviewed documents lacking such markings.

In this report, we also assess whether classified documents in a newly selected sample were classified in accordance with Federal requirements.

### **Data Sources**

We based this study on (1) a review of the seven previously evaluated documents that did not include the required portion markings, (2) a review of a newly selected sample of classified documents that included the most recent 50 derivatively classified products that OSSI had developed as of April 2016, and the only originally classified product that OSSI developed in FY 2015, and (3) an interview with OSSI officials.

In FY 2015, HHS originally classified one document and derivatively classified 3,578 documents.

Appendix E provides a detailed description of our methodology.

### **Limitations**

Because OIG reviewed the 50 most recently derivatively classified products that OSSI developed, it is possible that the sample of reviewed documents does not represent the other non-selected documents. Because of this sampling approach, we have not projected the results of our review. However, we believe that our results provide a general indication of whether documents were classified in accordance with Federal requirements.

### **Standards**

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

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<sup>19</sup> P.L. 111-258, § 6.

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## **FINDINGS**

### **OSSI took appropriate action to address required portion markings 3 years after OIG's original recommendation**

In May 2013, OIG recommended that OSSI apply the required portion markings to the seven classified documents that were identified as missing such markings. Federal regulations require portion markings to be applied to all classified documents. Portion markings indicate which portions are classified and which are not classified within the same document. These different portions are marked separately in order to avoid over-classification.

OIG considers this recommendation implemented, after several engagements with OSSI. In May 2014, OSSI informed OIG in writing that it applied the necessary portion markings to the previously reviewed classified documents. In May 2016, OIG conducted a follow-up onsite review and found that three of the seven documents had not been corrected. In July 2016, OSSI informed OIG in writing that it applied the necessary portion markings to the identified documents. However, when OIG conducted another follow-up onsite review, we found that OSSI still had not taken appropriate action. Subsequent to that review, OIG worked with OSSI to address the portion markings for the three documents.

### **HHS's one originally classified document in FY 2015 did not include the reason for classification or classifier's position**

HHS originally classified only one document in FY 2015, and it did not include certain requirements. Specifically, the document did not include the reason for classification, nor did it include the position of the OCA in the "Classified by" line.

Classified information must fall within one or more of the classification categories (e.g., military plans, weapons systems, or operations). Appendix B lists the classification categories. Moreover, the OCA is required to indicate at least one of these categories as the reason for classification. If the OCA does not provide the reason for classification, OIG may not be able to determine whether the document was classified correctly or should be classified at all.

Moreover, only an OCA may originally classify information. Providing the position of the individual who classified the information in the “Classified by” line helps ensure that the individual originally classifying the information is an OCA.

**Twenty-eight percent of the derivatively classified documents reviewed did not include the position of the person who classified the information**

Fourteen of the fifty derivatively classified documents that OIG reviewed did not contain position of the individual who derivatively classified the information, as Federal regulation requires. Moreover, one of these 50 documents also lacked the required portion markings.

Individuals who derivatively classify information must be identifiable and possess the appropriate security clearance. Federal regulations require that the name and position of the individual who derivatively classified the information be included on the document. Providing the name and position allows for identification of the individual who either derivatively or originally classified the information. This may be needed in the event that there are questions related to the document (e.g., reasons for classification, declassification, or background). See Table 2 for information on documents that did not meet requirements.

**Table 2: Derivatively Classified Documents That Did Not Meet Federal Requirements**

Requirement	Number of Documents that Did Not Meet the Requirement (n=50)
Information was related to the reproduction, extraction, or summation of information that was already classified	0
Information was marked consistently with the classification markings applied to the original information	0
Person who applied the derivative classification was identified on the document by name and position or personal identifier	14
Portion markings were present	1
Overall classification level was present	0
Declassification instructions were present	0
<b>Total That Did Not Meet All Requirements</b>	<b>15</b>

Source: OIG analysis of derivatively classified documents, 2016.

We further found that 21 of the 50 derivatively classified documents reviewed did not contain the full name of the individual who derivatively classified the information. The documents contained the

initials of the individual. Although Federal regulations do not require the agency to provide the full name of the individual who derivatively classify documents, one of HHS' training slides stated, in a highlighted note, that "HHS employees shall use their full name and not their initials" in the "Classified by" line.<sup>20</sup> During our August 11, 2016 meeting with OSSI, OSSI stated that they recently had revised the training to remove the requirement that HHS employees use their full name and planned to include the revision in the FY 2017 training.

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<sup>20</sup> HHS' FY 2016 Derivative Classification Training Module.

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## **CONCLUSION AND RECOMMENDATIONS**

As mandated by the Act, we conducted a follow-up evaluation to assess HHS's progress in implementing the recommendations from OIG's previous reports. Prior to this review, OIG had determined that HHS fully implemented three of the four recommendations from the previous reports. The fourth recommendation was implemented as a result of this review.

A review of a new sample of classified documents also found that HHS had not classified all documents in accordance with all of the Executive Order and Federal requirements. Specifically, the one originally classified document did not include the reason for classification or the position of the OCA who classified the document. Further, 28 percent of the derivatively classified documents reviewed did not include the position of the person who derivatively classified the document. To address the issues identified in this report, we recommend that OSSI, working on behalf of the Office of the Secretary:

### **Apply the reason for classification and classifier position to the reviewed originally classified document**

For the one originally classified document classified in FY 2015, OSSI should create a new document with the necessary information or apply the reason for classification as well as the position of the OCA who classified the information. OSSI should notify OIG when corrective actions have been finalized. OIG will then have an OIG representative with the proper security clearance review this document.

### **Reiterate training on required classifier identification for individuals who classify information**

Per Federal regulation, individuals who apply classification markings need to use a (1) personal identifier or (2) his or her name and position. If OSSI does not create a personal identifier for its classifiers, it should provide training to classifiers to ensure that the position of the individuals who classify information is included, along with his or her name, on all future originally and derivatively classified documents. Further, OSSI should disseminate corrected guidance (i.e., removal of the inaccurate note on one slide) in its FY 2017 training regarding the removal of the requirement that HHS employees use their full name, as it had planned.

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## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

OSSI concurred with the first recommendation and stated that prior training fully covered the second recommendation.

With respect to the first recommendation, OSSI stated that it has applied both the reason for classification and position title of the individual who applied the classification to the document that was originally classified in FY 2015. OIG will make arrangements with OSSI to re-review this document to close out this recommendation.

With respect to the second recommendation, OSSI stated that in FY 2015 it initiated training that fully covers this recommendation. Based on the FY 2015 training, OIG closed a training recommendation in a prior report, as noted in the Background section of this report. OIG's current recommendation is that in future trainings, OSSI reiterate the requirements for classifier identification for individuals who classify information. OSSI's planned FY 2017 training will provide an opportunity to remind staff of the need to apply the classifier's position title when derivatively classifying documents.

OSSI's comments are provided in Appendix F.

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## APPENDIX A

### Reducing Over-Classification Act of 2010

The Reducing Over-Classification Act of 2010 requires that the Inspector General of each Federal department or agency with an individual authorized to make original classification decisions conduct two evaluations.<sup>21</sup> Below is an excerpt from this Act which describes the mandated evaluations.

#### (b) INSPECTOR GENERAL EVALUATIONS.—

(1) REQUIREMENT FOR EVALUATIONS.—Not later than September 30, 2016, the inspector general of each department or agency of the United States with an officer or employee who is authorized to make original classifications, in consultation with the Information Security Oversight Office, shall carry out no less than two evaluations of that department or agency or a component of the department or agency—

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

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

#### (2) DEADLINES FOR EVALUATIONS.—

(A) INITIAL EVALUATIONS.—Each first evaluation required by paragraph (1) shall be completed no later than September 30, 2013.

(B) SECOND EVALUATIONS.—Each second evaluation required by paragraph (1) shall review progress made pursuant to the results of the first evaluation and shall be completed no later than September 30, 2016.

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<sup>21</sup> P.L. 111-258, § 6.

(3) REPORTS.—

(A) REQUIREMENT.—Each inspector general who is required to carry out an evaluation under paragraph (1) shall submit to the appropriate entities a report on each such evaluation.

(B) CONTENT.—Each report submitted under subparagraph (A) shall include a description of—

(i) the policies, procedures, rules, regulations, or management practices, if any, identified by the inspector general under paragraph (1)(B); and

(ii) the recommendations, if any, of the inspector general to address any such identified policies, procedures, rules, regulations, or management practices.<sup>22</sup>

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<sup>22</sup> Ibid.

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## APPENDIX B

### Additional Information Regarding Classification

Requirements for originally classified documents. Federal regulations require that originally classified documents provide that:

1. an OCA classified the information;
2. the information was owned by, produced by or for, or was under the control of the U.S. government;
3. the information fell within one or more of the specified classification categories (See table below);
4. when asked, the OCA could describe the expected damage to national security in the event of the information's unauthorized disclosure;<sup>23</sup>
5. the information was not classified, continued to be maintained as classified, or failed to be declassified in order to (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of the national security.<sup>24</sup>
6. the OCA established a specific date or event for declassification; and
7. the following identification and markings were included: (1) portion marking(s), (2) overall classification, (3) the name and position, or personal identifier, of the original classification authority; (4) the agency and office of origin; (5) the reason(s) for the classification (i.e., reference Section 1.4 of 32 CFR 2001.21(a)(3) and then add the following letter(s), a – h, as appropriate); and (6) declassification instructions (e.g., the declassification date).

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<sup>23</sup> OCAs are not required to provide in writing a description of the damage to national security that could be expected in the event of the information's unauthorized disclosure. To determine whether this requirement was met, we asked the OCA who classified the information to describe the damage to national security that could be expected in the event of the information's unauthorized disclosure.

<sup>24</sup> Executive Order No. 13526 § 1.7.

Requirements for derivatively classified documents. Federal regulations require that derivatively classified documents provide that:

1. the information was related to the reproduction, extraction, or summation of information that was already classified;
2. the person who applied the derivative classification was identified on the document by name and position or personal identifier;
3. the information was marked consistently with the classification markings applied to the original information (i.e., the derivative classification included the pertinent classification markings on the original classified document); and
4. the following identification and markings were included: (1) portion marking(s), (2) overall classification, (3) the name and position, or personal identifier, of the person applying the derivative classification; and (4) declassification instructions (e.g., the declassification date).

Reasons for classification for originally classified documents. The table below lists the reasons for classification plus the letters that correspond to those classification categories.

Reasons for Classification
(A) Military plans, weapons systems, or operations
(B) Foreign government information
(C) Intelligence activities (including covert action), intelligence sources or methods, or cryptology
(D) Foreign relations or foreign activities of the United States, including confidential sources
(E) Scientific, technological, or economic matters relating to the national security
(F) U.S. Government programs for safeguarding nuclear materials or facilities
(G) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security
(H) Development, production, or use of weapons of mass destruction

Source: Executive Order No. 13526 § 1.4 and 32 CFR § 2001.21.

Duration of Classification. At the time of original classification, the OCA must assign a date or event upon which classified information will be declassified. Generally, this date or event should be less than

10 years from the date of original classification.<sup>25</sup> Upon the stated date or event, the information must be automatically declassified.<sup>26</sup>

*Classification Challenges.* Authorized holders of information who, in good faith, believe that the information's classification status is improper are encouraged and expected to challenge the classification status in accordance with agency procedures. Agencies must establish procedures to ensure that (1) individuals are not subject to retribution for challenging classification status, (2) an opportunity for review by an impartial official or panel is provided, and (3) individuals are advised of their right to appeal agency decisions to the Interagency Security Classification Appeals Panel established under Executive Order No. 13526.<sup>27</sup>

*Security Education and Training.* Each agency must establish security education and training programs that ensure that all employees who create, process, or handle classified information possess satisfactory knowledge regarding the classification, safeguarding, and declassification policies and procedures.<sup>28</sup>

*Establishing and Maintaining Ongoing Self-Inspections.* Each agency must establish and maintain ongoing agency self-inspection programs, which include reviews of representative samples of the agency's original and derivative classification actions.<sup>29</sup> The self-inspections should evaluate whether the agency has adhered to the pertinent Federal requirements.<sup>30</sup> OSSI reinstated its annual self-inspections after February 2016, which include a review of all aspects of the markings on a document.

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<sup>25</sup> Executive Order No. 13526 § 1.5; 32 CFR § 2001.12. If the OCA is unable to assign a 10-year declassification date, he or she must assign a declassification date not to exceed 25 years from the date of the original classification decision. However, if the information relates to a confidential informant or weapons of mass destruction, the OCA may assign a declassification date up to 75 years from the date of the original classification.

<sup>26</sup> Ibid.

<sup>27</sup> Executive Order No. 13526 § 1.8; 32 CFR § 2001.14.

<sup>28</sup> 32 C.F.R. § 2001.70; Executive Order No. 13526 § 4.1(b).

<sup>29</sup> Executive Order No. 13526 Part 5; 32 C.F.R. § 2001.60.

<sup>30</sup> 32 C.F.R. § 2001.60(c).

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## APPENDIX C

### Definition of Each Classification Level

Information may be classified at one of three levels: “Top Secret,” “Secret,” and “Confidential.” Below is a definition of each classification level.<sup>31</sup>

*Top Secret* (TS) is “applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.”

*Secret* (S) is “applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.”

*Confidential* (C) is “applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.”

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<sup>31</sup> Executive Order No. 13526 § 1.2.

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## APPENDIX D

### Portion Markings Example

<b>SECRET</b> <b>(For Illustration Purposes Only)</b>		Date
TO:		
FROM:		
SUBJECT:	<b>(C)</b> Request for Data Concerning HHS Declassification Efforts	
<b>(C) PURPOSE:</b>	This is an example of the portion marking for a main paragraph.	
<b>(C) COORDINATION:</b>	None	
<b>(S) BACKGROUND:</b>	<ul style="list-style-type: none"><li>• <b>(S)</b> This is the portion marking for a classified primary bullet statement.<ul style="list-style-type: none"><li>○ <b>(S)</b> This demonstrated that sub-bullets must also contain portion markings.</li></ul></li><li>• <b>(C)</b> This is the portion marking for a classified primary bullet statement.</li></ul>	
<b>(S) RECOMMENDATION:</b>	Sign the Memorandum at right.	
		Signature Block
Classification authority block	<b>Classified By:</b>	John Smith, OSSI, Program Analyst
	<b>Derived From:</b>	DHS Memorandum, Dtd 20110205, same subject
	<b>Declassify On:</b>	20210205
<b>(For Illustration Purposes Only)</b> <b>SECRET</b>		

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## APPENDIX E

### Detailed Methodology

#### Review of Classified Documents

##### Previously reviewed documents lacking required portion markings.

For the first evaluation, we reviewed a sample of 43 classified documents to determine whether they were classified in accordance with Federal requirements. We conducted this review in August 2012. At that time, HHS had 13 originally classified documents and approximately 700 derivatively classified documents, for a total population of 713 classified documents. We reviewed all 13 originally classified documents and a purposive sample of 30 derivatively classified documents developed from 2002 through 2012.

Of the 43 classified documents reviewed, 36 met all Federal requirements regarding classified information; however, 7 of the reviewed documents lacked the required portion markings. As a result, OIG recommended that OSSI take appropriate action to apply the required portion markings to reviewed classified documents.

For this evaluation, we reviewed the seven documents that did not include the required portion markings to ensure that the markings had been applied as recommended.

Review of newly selected sample of classified documents. For this second review, we worked with OSSI to select a sample of classified documents that included the most recent 50 derivatively classified products that OSSI had developed as of April 2016, and the only originally classified product that OSSI developed in FY 2015.

In FY 2015, HHS originally classified one document and derivatively classified 3,578 documents.

For each sampled document, we completed a structured review instrument to determine whether the classification of original and derivative information complied with Federal requirements as described in Appendix B.

We did not project the results of our review of the sampled documents to the population of derivatively classified documents.

#### Interview with OSSI Officials

We interviewed OSSI officials to learn whether any additional changes related to the proper classification of documents were implemented subsequent to OIG reports published in May 2013.

# APPENDIX F

## Agency Comments



### DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Security and Strategic Information  
Washington, D.C. 20201

TO: Suzanne Murrin  
Deputy Inspector General  
for Evaluations and Inspections

FROM: Patricia A. Long *PAJ*  
Deputy Assistant Secretary  
Secretary's Senior Intelligence Official

DATE: September 21, 2016

SUBJECT: **Response to the Office of the Inspector General's Report titled: *HHS Has Made Progress In Properly Classifying Documents; However, New Issues Should be Addressed (OEI-07-16-00080)***

Thank you for the opportunity to review and comment on the above referenced Report. The OIG conducted its evaluations within the Office of Security and Strategic Information (OSSI), which is responsible by federal regulation for the oversight of the Department's national security program. This evaluation focused on reviewing three of the seven classified documents from approximately 14 years ago and 50 derivatively classified products from 2015-2016. There was only one originally classified document created in the last few years at the lowest classification level – a testament to OSSI's adherence to the requirements of The Reducing the Over-Classification Act of 2010.

During this review neither the OIG nor OSSI could identify the seven originally classified documents reviewed in 2012; therefore OSSI provided all documents from the prior review and attempted to identify the seven originally classified documents. During this evaluation, OSSI informed the OIG on proper classification procedures and that OSSI could not remark historical classified documents that were already widely distributed; to do so would create confusion about the actual classification of the document. OSSI was then able to correctly document the process during this evaluation. Of the 50 newer documents, all were properly classified and all contained the name or personal identifier of the person who derivatively classified the product. OSSI acknowledged during the review that 14 of the 50 did not contain the position title of the individual identified in the Classification Authority Block. The Report also addressed OSSI's training related to classified information. As OSSI discussed with the OIG, this office proactively developed and promulgated the annually required national security information training and bi-annual derivative classification training to all cleared HHS employees; OCA training to the Department's four OCAs; and Classification Security Officer training in FY15. While there was a note at the bottom of one training slide out of 41 regarding use of an employee's full name, the content of the slide accurately represented the language found in the Code of Federal Regulations. Use of one's "full name" is not a federal requirement and OSSI itself informed the OIG it was OSSI's error and immediately corrected the slide by deleting the "note" to avoid confusion.

The Report cites two recommendations. OSSI concurs with applying the reason for classification and position title to the originally classified document. In fact, OSSI corrected this document prior to the conclusion of this evaluation. As to the OIG's second recommendation to provide training on the inclusion of the position title in the classification block, OSSI initiated training in FY15 that fully covers this recommendation.

We appreciate the OIG review and shared commitment to strengthening the Department's response to The Reducing the Over-Classification Act.

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## **ACKNOWLEDGMENTS**

This report was prepared under the direction of Brian T. Whitley, Regional Inspector General for Evaluation and Inspections in the Kansas City regional office, and Jennifer King, Deputy Regional Inspector General.

Rae Hutchison served as the lead analyst for this study. Other Office of Evaluation and Inspections staff who conducted the study include Cody Johnson and Abbi Warmker. Central office staff who provided support include Althea Hosein, Jay Mazumdar, Joanne Legomsky, and Melicia Seay.

# Office of Inspector General

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