December 9, 2021

Memorandum for: Selected Senior Agency Officials Designated Under Section 5.4(d) of
Executive Order 13526, "Classified National Security Information"

From: Mark A. Bradley, Director

Subject: FY 2022 Fundamental Classification Guidance Review

Notice

This memorandum gives guidance concerning the FY 2022 Fundamental Classification Guidance Review (FCGR) required by Executive Order 13526, "Classified National Security Information" (the Order). Your agency must perform the FCGR and submit the results of the completed review in a final report to the Information Security Oversight Office (ISOO) by September 30, 2022. Please provide this office with the name and contact information of your point of contact (POC) for this review by January 14, 2022.

The goal of the FCGR is to ensure that agency classification guidance is up-to-date, accurate, reflects current circumstances, only authorizes classification in those specific instances necessary to protect national security, and identifies classified information that no longer requires protection and can be declassified. A reasonable outcome of the review overall, though not necessarily in the case of each program or guide, is to expect a reduction in classification activity across government.

Agencies will provide a status update to ISOO on their progress on the FCGR in April 2022 and again in July 2022. ISOO will provide additional guidance on completing the FCGR to Senior Agency Officials (SAOs) and POCs as the reviews progress.

About the FCGR

Section 1.9 of the Order requires agencies to perform this review on a periodic basis, but at least every five years. The FCGR aims to ensure current guidance in use at agencies keeps classification to the minimum necessary and supports the declassification of information that no longer requires protection.

All final reports submitted to ISOO should be unclassified. As in 2012 and 2017, ISOO will post the final reports and interim progress reports on its [website](#).

Authority and Implementation

ISOO's 2022 FCGR is conducted under authority of E.O. 13526, which requires that agency heads submit a final report to ISOO. It requires each agency with Original Classification Authority (OCA) to complete a comprehensive review of each classification guide and includes OCAs, subject matter experts, declassifiers, and access professionals.

The Order's implementing directive, 32 C.F.R. 2001, provides additional instruction and implementing requirements for agencies to include as part of their FCGR. This information is identified in 32 C.F.R. 2001.16, "Fundamental Classification Guidance Review."

Reporting Requirements and Deadlines

By September 30, 2022, agency heads must sign and submit to ISOO the completed, unclassified FCGR final report. Agencies must provide ISOO with a status update on their FCGR progress in April 2022 and again in July 2022. The final report must include the following information:

- A detailed description of the review process conducted by the agency with the participation of appropriate agency subject matter experts with the broadest possible range of perspective, including input from OCAs, subject matter experts, declassifiers, access professionals, and, if appropriate, external users at other agencies;

- The number of classification guides reviewed;

- The number of classification guides cancelled;

- The number of classification guides modified;

- The number of classification guides consolidated; and

- The number of classification guides provided to users in electronic format.

The scope of the FCGR encompasses all current classification guides, including classification guides specific to all Special Access Programs (SAPs) and compartmentalized activities. Additionally, the FCGR final report should include a systematic, comprehensive, and detailed data analysis based on the results of the review. Reviews must:

- Determine if the classification guidance conforms to current operational and technical circumstances;

- Determine if the classification guidance meets the standards for classification under section 1.4 of the Order and includes an assessment of likely damage under section 1.2 of the Order;

- Determine if the dissemination and availability of the classification guidance is appropriate, timely, and effective;

- Examine classification decisions since the conclusion of the 2017 FCGR, to ensure that classification decisions reflect the intent of the guidance regarding what is classified, the

appropriate classification level, the duration of classification, and associated markings; and

- Include an evaluation of the results of all self-inspections, ISOO assessments, and any classification challenges since the last FCGR.

Participation and Expectations

In conducting the FCGR, the agency head or SAO must include all OCAs, subject matter experts, derivative classifiers and users of classified information, Freedom of Information Act and access professionals, and declassifiers. To the greatest extent practicable, external subject matter experts and external users of the reviewing agency's classification guidance and decisions should also contribute to the review.

In directing the FCGR, the agency head or SAO must balance the contributions of subject matter experts with sufficient expertise in narrow specializations with the participation of managers and planners who have broader organizational vision and relationships.

Agencies should create working groups led by the appropriate SAO that includes sufficient representation across all areas of classification, declassification, and public access, and with defined authority to conduct the review of all elements specified in E.O. 13526 and 32 CFR 2001.16(b).

Best Practices

ISOO recommends that agencies adopt additional criteria for performing their reviews. These best practices include:

- Consider whether information must retain its current level of classification or if it should be downgraded or declassified;

- Consider the effect of classification on information sharing and operational needs;

- Consider whether the duration of classification is appropriate and, for information currently exempted from automatic declassification, whether the exemption should still apply;

- Determine *with specificity* what no longer requires protection (An example would be a specific part of a weapon system versus the weapon system as a whole. The user of the guide must be able to identify the specific element of information that does or does not require protection);

- Reflect past declassification decisions resulting from review under the Freedom of Information Act, Mandatory Declassification Review, and automatic declassification;

- Cross-reference information with other classification guides, both within and outside your agency and joint agency classification guides. Agencies should make every effort to determine if multiple classification guides contain the same classified information. In

these instances, instructions should be the same, or should highlight any differences, making distinctions in guidance readily known and apparent. Additionally, the classification guides should cite the cross-referenced guides;

- Incorporate recent original classification decisions in appropriate security classification guides; and

- Review previous Interagency Security Classification Appeals Panel decisions and discretionary declassification decisions that permit broader declassification that necessitates changes to classification guidance.

Agencies performing these reviews should remember that one of the most important aspects of the review is an examination of recent classification decisions to ensure they reflect the *intent* of the guidance as to what is classified, the appropriate level, the duration, and associated markings.

I appreciate your cooperation and your personal commitment to this initiative, which furthers the President's goals for greater openness while protecting legitimate national security interests. Please direct questions and all responses to Robert Fahs on my staff. He can be reached at 202-357-5474 or robert.fahs@nara.gov.