



**BILLING CODE: 5001-06**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**[Docket ID: DoD-2020-OS-0037]**

**Privacy Act of 1974; System of Records**

**AGENCY:** Office of the Secretary, Department of Defense (DoD).

**ACTION:** Notice of a modified System of Records.

**SUMMARY:** The Office of the Secretary of Defense (OSD) is modifying the System of Records, Mandatory Declassification Review Files, DWHS E05. This system was established to verify and declassify record requests from the public and to provide a resource to research historical data. Without the ability to review and declassify data in the Mandatory Declassification Review (MDR) Files System of Records, information in the system would not be releasable to the public and the DoD would not comply with the applicable regulations and laws. Updates to this system include administrative changes required by the Office of Management and Budget (OMB) Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act," revised December 23, 2016. This modification includes changes to the system name, authorities, purpose, categories of records, routine uses, storage of records, retention and disposal of records, safeguards, records access procedures, contesting record procedures, notification procedures, and exemptions sections. In addition, the only exemption claimed for the system, (k)(1), is being deleted, since the system does not contain classified information. The records undergoing MDR are stored in a separate system, which is not a Privacy Act System of Records.

**DATES:** This System of Records modification is effective upon publication; however, comments on the Routine Uses will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The Routine Uses are effective at the close of the comment period.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

\* Federal Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

\* Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:* All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division, 1155 Defense Pentagon, Washington, DC 20301-1155, or by phone at (571) 372-0478.

**SUPPLEMENTARY INFORMATION:** This System of Records is mandated by E.O. 13526, 32 CFR 2001.33, and DoD 5230.30-M which require the DoD to validate requests from members of the public requesting classified information. As a result, the DoD is required to identify the requested document or information record with sufficient specificity to enable the

DoD to locate it with a reasonable amount of effort. Without this system, the DoD will not comply with these requirements. Also, the system allows the DoD to consider the sensitivity of the requested data to determine its releaseability and to address denials or appeals in a timely manner.

The OSD notices for Systems of Records subject to the Privacy Act of 1974, as amended, have been published in the Federal Register and are available from the address in FOR FURTHER INFORMATION CONTACT or from the Defense Privacy, Civil Liberties, and Transparency Division website at <https://dpcl.d.defense.gov>.

The proposed systems reports, as required by the Privacy Act, as amended, were submitted on December 16, 2019, to the House Committee on Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the OMB pursuant to Section 6 of OMB Circular No. A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act," revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: March 30, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer,*

*Department of Defense.*

**SYSTEM NAME AND NUMBER:** Requestor Database for Office of the Secretary of Defense Mandatory Declassification Reviews, DWHS E05.

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** Records, Privacy and Declassification Division, Executive Services Directorate, 6564 Loisdale Court, Springfield, VA 22150-1827.

**SYSTEM MANAGER(S):** Chief, Records, Privacy, and Declassification Division, Executive Services Directorate, 4800 Mark Center Drive, Alexandria, VA 20350-3200. Email: whs.mc-alex.esd.mbx.records-and-declassification@mail.mil; Telephone 571-372-0496.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** Executive Order 13526, Classified National Security Information; 32 CFR 2001.33, Mandatory Review for Declassification; Department of Defense Instruction 5200.01, DoD Information Security Program and Protection of Sensitive Compartmented Information (SCI); Department of Defense Manual (DoDM) 5230.30-M, DoD Mandatory Declassification Review (MDR) Program; and DoDM 5200.01, Volume 1, DoD Information Security Program: Overview, Classification and Declassification, and DoDD 5110.04 Washington Headquarters Services (WHS).

**PURPOSE(S) OF THE SYSTEM:** To process requests and/or appeals from individuals for the mandatory review of classified records for the purposes of releasing declassified material to the public and to provide a research resource of historical data on release of records to ensure consistency in subsequent actions. Data developed from this system is included in the annual report on the DoD's security classification management program to the National Archives and Records Administration's (NARA's) Information Security Oversight Office. This data also serves management's needs by providing information about the number of requests, the required type or category of records, and the average processing time.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** Individuals requesting MDR or appealing a MDR determination for access to records and information within the scope of the OSD.

**CATEGORIES OF RECORDS IN THE SYSTEM:** Requester's name, address, source (organization of requester), source case number (if applicable), document classification rating, receipt date, response date, number of pages, OSD MDR case number and unclassified subject of the request.

**RECORD SOURCE CATEGORIES:** The individual.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING**

**CATEGORIES OF USERS AND PURPOSES OF SUCH USES:** In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- a. To the NARA, Interagency Security Classification Appeals Panel (ISCAP) for the purpose of complying with Executive Order 13526, to review administrative agency policies and procedures and to facilitate the ISCAP's offering of mediation services to resolve disputes between persons making MDR requests and government agencies.
- b. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this System of Records.
- c. To foreign or international law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international

agreements and arrangements including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

d. To appropriate Federal, State, local, territorial, tribal, foreign, or international agencies for the purpose of counterintelligence activities authorized by U.S. law or Executive Order, or for the purpose of executing or enforcing laws designed to protect the national security or homeland security of the United States, including those relating to the sharing of records or information concerning terrorism, homeland security, or law enforcement.

e. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

f. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

g. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

h. To the NARA for the purpose of records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

- i. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.
- j. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the System of Records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- k. To another Federal agency or Federal entity, when the DoD determines that information from this System of Records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** Paper records and electronic storage media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records are retrieved by requester name and other pertinent information, such as organization or address, subject material describing the MDR item (including date), OSD MDR case number using computer indices, referring agency, or any combination of those fields.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Temporary. Cut off and destroy when no longer needed. Purge database when no longer needed for reference.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** The records are stored in a Defense Counterintelligence and Security Agency approved secure closed area requiring badge and PIN access. The system is password protected, with limited access and multiple levels of user restriction, including limited access to officials with a need-to-know. Paper records are maintained in security containers with access limited to officials with a need-to-know. All records are protected in accordance with the National Industrial Security Program Operating Manual.

**RECORD ACCESS PROCEDURES:** Individuals seeking access to information about themselves contained in this System of Records should address inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301-1155. Signed, written requests should include the name and number of this System of Records Notice along with the individual's name and address of the individual at the time the record was created. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on (date). (Signature)."

**CONTESTING RECORD PROCEDURES:** The DoD rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

**NOTIFICATION PROCEDURES:** Individuals seeking to determine whether information about themselves is contained in this System of Records should address inquiries to Chief, Records, Privacy and Declassification Division, Executive Services Directorate, 4800 Mark Center Drive, Alexandria, VA 20350-3200. Signed, written requests should include the individual's name and address of the individual at the time the record would have been created, along with the name and number of this System of Records Notice. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** None.

**HISTORY:** October 30, 2014, 79 FR 64584; October 28, 2011, 76 FR 66916; October 14, 2010, 75 FR 63160; March 28, 2007, 72 FR 14533; November 29, 2002, 67 FR 71147; February 22, 1993, 58 FR 10227.

[FR Doc. 2020-06914 Filed: 4/1/2020 8:45 am; Publication Date: 4/2/2020]