

The logo for the Information Security Oversight Office (ISOO), featuring a stylized eagle with wings spread, perched on a scroll, with the words "ISOO" below it.

ISOO

INFORMATION SECURITY OVERSIGHT OFFICE

2023

ANNUAL REPORT *to* THE PRESIDENT

WASHINGTON, DC 20408-0001

ISOO's Authorities

- Executive Order (E.O.) 13526, "Classified National Security Information"
- E.O. 12829, as amended, "National Industrial Security Program"
- E.O. 13549, "Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities"
- E.O. 13556, "Controlled Unclassified Information"
- E.O. 13587, "Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information"
- 50 U.S.C. 3355a: Public Interest Declassification Board

ISOO's Mission

- The Information Security Oversight Office (ISOO) supports the President by ensuring that the government protects and allows proper access to Classified National Security Information (CNSI) and Controlled Unclassified Information (CUI) to advance the national and public interest.
- The Director of ISOO receives policy and program guidance from the National Security Advisor, under the direction of the Archivist of the United States.
- We lead efforts to assess the management of classified and controlled unclassified information through oversight, policy development, guidance, and reporting.

ISOO's Primary Functions

- Recommend policy changes for the CNSI and CUI programs to the President through the Assistant to the President for National Security Affairs.
- Collect and analyze information about the status of agency CNSI and CUI programs and report annually to the President on our findings.
- Develop implementing guidance and approve agency implementing regulations and policies related to the CNSI and CUI programs.
- Serve as Executive Agent to implement and oversee agency actions for the CUI program under E.O. 13556.
- Chair the CUI Council under E.O. 13556, the State, Local, Tribal, and Private Sector Policy Advisory Committee under E.O. 13549, and the National Industrial Security Program Policy Advisory Committee under E.O. 12829, as amended.
- Provide program and administrative support for the Interagency Security Classification Appeals Panel (ISCAP) and the Public Interest Declassification Board (PIDB).

LETTER TO THE PRESIDENT

April 9, 2024

The President

The White House

Washington, D.C. 20500

Dear Mr. President,

I am pleased to submit the Information Security Oversight Office's (ISOO) Report for Fiscal Year 2023, as required by Executive Order 13526, "Classified National Security Information" and Executive Order 13556, "Controlled Unclassified Information."

This report provides statistics and analysis of the Classified National Security Information (CNSI) and Controlled Unclassified Information (CUI) programs based on ISOO's review of Departments' and Agencies' self-assessment reporting and our targeted oversight reviews. It includes sections on other programs and activities that ISOO is tasked to lead and manage, including the Interagency Security Classification Appeals Panel (ISCAP), the National Industrial Security Program (NISP), and the Public Interest Declassification Board (PIDB), among others. Additionally, we report on ISOO's significant role in managing the program for any entities outside of the U.S. government who find potentially classified information in their control.

My team and I have been working closely with members of your National Security Council staff to re-evaluate and improve the management of both the CNSI and CUI programs. In the past, ISOO has made many recommendations for improvements to both systems, and we look forward to realizing and implementing any reforms that you direct.

Sincerely,



William P. Fischer

Acting Director, Information Security Oversight Office

ISOO's FY 2023 Annual Report:

Table of Contents

Executive Order 13526, "Classified National Security Information" Program Implementation and Oversight	4
Executive Order 13556, "Controlled Unclassified Information" Program Implementation and Oversight	9
Executive Order 12829, "National Industrial Security Program" Implementation and Oversight	11
ISOO Support for the Public Interest Declassification Board	12
Executive Order 13549, "Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities" Program Implementation	14
Appendix A: CUI Policy and Safeguarding Completion by Agency	15
Appendix B: Informational Graphics Regarding Declassification	17

Executive Order 13526, "Classified National Security Information" Program Implementation and Oversight

NSC Staff Memorandum Establishing the Information Management and Classification Interagency Policy Committee (IPC)

On June 2, 2022, the National Security Council (NSC) Staff issued a memorandum to agencies which aimed to overhaul, update, and streamline the many ways that the executive branch creates and manages classified and controlled unclassified information, including special access programs (SAPs). Since that time, the NSC has led a robust interagency process to modernize and reform the policies that govern this information. My office has participated in this process, and we anxiously await the issuance of these policies.

ISOO's Role in Safeguarding and Declassifying Potentially Classified Information Outside Government Control

32 CFR Part 2001.36(b) provides: "Anyone who becomes aware of organizations or individuals who possess potentially classified national security information outside of government control must contact the Director of ISOO for guidance and assistance. The Director of ISOO, in consultation with other agencies, as appropriate, will ensure that the safeguarding and declassification requirements of the Order are met."

Since the implementation of E.O. 13526, ISOO has routinely assisted non-governmental organizations and private citizens who find potentially classified information in their possession. In FY 2023, ISOO received inquiries from six different non-governmental organizations. In all instances, these institutions sent records from their holdings to ISOO for temporary safeguarding until they are determined to be unclassified or are properly declassified through the mandatory declassification review process. Records determined to still contain CNSI following an agency level review remain in the custody of ISOO until they can be declassified in their entirety.

Recognizing the need for guidance on safeguarding classified information found outside of government control – and following events in FY 2022 that received significant media attention – ISOO issued Notice 2023-001, which provided guidance to individuals and organizations on how to identify potentially classified information, and how to protect and transmit classified records to ISOO for safeguarding and review upon discovery.

Cost and Budget Analysis for Classified System

As part of ongoing efforts to determine costs related to the CNSI program, ISOO included an item in the annual data collection asking how many full-time equivalent (FTE) employees agencies with declassification programs had working in each of 12 declassification areas. The total number reported across the executive branch came to 1,877 FTE and is broken down by area in appendix B. We also asked all agencies how many FTE worked on their CNSI self-inspection programs. The total number reported to be working in this area across the federal government was 526.

The final cost-related element is the most demonstrative of the problems ISOO encounters in receiving reliable data from agencies, particularly—but not solely—related to budgeting and costs of the CNSI system writ large. For the third year in a row, we asked agencies to report on their costs for CNSI security clearance investigations and reinvestigations. In FY 2021, agencies reported a total in this area of \$1.5 billion. In FY 2022 those same agencies reported a total of just over \$714 million, which is less than half of the amount reported in FY 2021. This year, the reported total for this identical question came to just under \$300 million, once again showing a more than 50% decrease in agency spending in this area. While it is possible that the total amount spent government-wide in this area does truly continue to decrease by more than 50% year over year, it is more likely that lacking standardized costing methods, agencies continue to count differently each year, leading to drastically different numbers, and rendering the current agency cost estimating process useless.

ISOO continues to advocate for reform of the oversight data elements mandated for agency reporting in order to reduce the reporting burden on agencies.

Original Classification Authority Designations

The authority to originally classify information may be exercised only by the President, the Vice President, those officials designated by the President, and any officials delegated this authority pursuant to E.O. 13526. Delegations of original classification authority (OCA) must be limited to the minimum required to administer the CNSI program. Agency heads are responsible for ensuring that designated subordinate officials delegated this authority have a demonstrable and continuing need to exercise it.

E.O. 13526 requires that delegations of OCA be reported to the Director of ISOO. In FY 2023, OCA reporting indicated that 17 agencies have designated 696 Top Secret-level OCAs, 979 Secret-level OCAs, and as has now been the case for the past four years, only three Confidential-level OCAs.

ISOO Support for the Interagency Security Classification Appeals Panel

I serve as the executive secretary of the ISCAP in accordance with E.O. 13526, and my staff provides program and administrative support.

In FY 2023, the ISCAP decided upon 18 mandatory declassification review (MDR) appeals, administratively closed 29 appeals (either because they did not meet the requirements for acceptance or because the appellant had withdrawn the appeal), and received 14 new appeals, continuing the decreasing trend of recent years. The backlog of unresolved appeals still numbers over 1,200.

Additionally, the ISCAP reviewed and approved updated declassification guides submitted by the Office of the Secretary of Defense and the Department of the Army. The ISCAP received one classification challenge appeal that was administratively closed because it did not meet the standards for acceptance established by section 1.8 of E.O. 13526. The ISCAP did not adjudicate any classification challenges in FY 2023.

On May 9, 2023, ISOO hosted an MDR forum for the public and Federal agency declassification staff at the National Archives Building. The MDR forum included an update on the activity of the ISCAP and a discussion panel concerning best practices for MDR requesters and reviewers that included representatives from the Department of Defense, the National Archives and Records Administration (NARA), and the Office of the Director of National Intelligence (ODNI). The event included an opportunity for questions and comments from attendees.

Records declassified in full or in part are posted to the ISCAP website at www.archives.gov/declassification/iscap/releases. Significant releases in FY 2023 include the 9/11 Commission interview with Prince Turki bin Faisal bin Abdul Aziz, a Central Intelligence Agency history of covert support of anti-Communist groups during the Cold War, and a 1969 interagency study of U.S. policy toward Korea.

Security Classification Guide (SCG) Assessments

FY 2023 was the fourth consecutive year we reviewed a sample of agency SCGs to determine if they are prepared in accordance with E.O. 13526 and 32 CFR Part 2001. We evaluated each SCG in detail, conducting a line-by-line review of the classification tables and examining the introductory and explanatory information in the guides.

Due to an extended timeline for completing and publishing ISOO's FY 2022 Annual Report to the President last year, all of the SCG reviews we performed during FY 2023 were included in the figures for last year, along with the numbers for FY 2022. In the interest of capturing the full effort of ISOO staff during FY 2023, they are presented here again.

ISOO reviewed a number of SCGs from each of the following agencies in FY 2023: the Department of Health and Human Services; the Department of the Treasury; the Central Intelligence Agency; the National Aeronautics and Space Administration; the National Geospatial-Intelligence Agency; the National Reconnaissance Office; the Nuclear Regulatory Commission; and the ODNI.

Of the 38 total SCGs reviewed, 7.9% were deficient in listing the appropriate OCA or including their signature with the guides. 34% of SCGs were noncompliant with the requirement to list which classification level applies to each element of information. In 18.4% of SCGs reviewed, ISOO discovered deficiencies in the requirement to specify a date or event for declassification.

The condition of the SCGs varied depending on agency mission and on the subject matter of the guides. Out of the 38 guides reviewed in FY 2023, 70% were deficient in at least one element of the guide requirements required by E.O. 13526. Some of the SCGs were chronically deficient and likely insufficient to facilitate proper and uniform derivative classification. 31.6% of SCGs did not provide a point of contact and 16% had not been reviewed in the last five years, which is a cause for concern in agencies with only one or two guides. In 13.2% of the guides, the rationale for classification was omitted from some or all the elements of information.

Of particular concern are those guides that allow the use of the 25X exemptions—which would exempt documents from automatic declassification at 25 years—where the agency responsible for the guide does not have the authority to apply such exemptions. Although a few of these agencies have been granted the authority to apply these exemptions at the time of automatic declassification by the ISCAP, that authority was not extended to newly created documents.

SCGs remain the cornerstone of a properly functioning classification system. They are the primary tool OCAs use to make and promulgate their original classification decisions

into derivative classification guidance. Deficient or inaccurate SCGs—particularly in terms of which elements of information must be protected and at what classification level—lead to the proliferation of improperly classified information. It is clear from our review that agencies must write guides more accurately and concisely.

Executive Order 13556, "Controlled Unclassified Information" **Program Implementation and Oversight**

CUI Implementation

E.O. 13556, "Controlled Unclassified Information," established the CUI program to standardize the way the executive branch handles unclassified information the government creates or possesses, or that an entity creates or possesses for or on behalf of the government, that requires safeguarding or dissemination controls pursuant to law, regulation, or government-wide policy. Established in the years following the 9/11 attacks to improve interagency information sharing while establishing consistent, standardized handling safeguards, the E.O. designated NARA as the Executive Agent for the program, with NARA executing its responsibilities through the Director of ISOO. 32 CFR Part 2002 implemented the CUI program requirements for safeguarding, disseminating, marking, decontrolling, and disposing of CUI.

Over the last few years, there have been continued gains in implementing CUI across the federal government. 40 of 81 agencies have completed their CUI policy. Additionally, nearly three quarters of agencies have begun acquiring the funding and resources they need to fully implement their programs. Once again, ISOO used an online data collection to gather information regarding agency CUI implementation, which is summarized in Appendix A.

While there has been significant progress across the government, there has also been a growing interest in identifying methods and strategies to help simplify CUI where possible without sacrificing the integrity of the program. This has been a key area of focus within the ongoing CUI reform efforts of the NSC's Classification, Declassification, and Information Management (CDIM) IPC process.

Interagency Policy Committee Process on CUI

The NSC Staff initiated a process to review the CUI program, including E.O. 13556, through the CDIM IPC. This ongoing effort is focused on identifying methods to improve and modernize the management of CUI.

Throughout the IPC review process, ISOO continues to instruct agencies to safeguard and handle CUI in accordance with the applicable federal laws, regulations, and Government-wide policy authorities governing this sensitive information. There is much work still to be done, but we are seeing continual forward movement towards standardization in the CUI program.

Federal Acquisition Regulation (FAR) for CUI

We have been informed via the General Services Administration that the CUI FAR clause remains under review at the Office of Federal Procurement Policy (OFPP). Once that review is complete, the rule will be resubmitted to OMB's Office of Information and Regulatory Affairs (OIRA). It will then undergo the standard process for interagency review.

The delay in issuing the CUI FAR clause contributes to the proliferation of non-standardized approaches by agencies that disadvantage contractors and small businesses and create gaps in security and reporting. Once issued, this regulation will help standardize the way executive branch agencies enforce the requirements of the CUI framework with nonfederal entities that receive CUI. This clause is a key part of how agencies will implement CUI.

Executive Order 12829, "National Industrial Security Program"

Implementation and Oversight

ISOO Responsibilities

As currently structured in E.O. 12829, I am responsible for implementing and monitoring the NISP in consultation with the National Security Advisor. My responsibilities include developing directives for the implementation of the E.O., overseeing actions to ensure compliance with the E.O., reviewing all agency implementing regulations, internal rules, or guidelines, conducting reviews of the implementation of the NISP, and considering and acting on complaints and suggestions from persons within or outside the government with respect to the administration of the NISP.

Under E.O. 12829, as amended, the Secretary of Defense serves as the Executive Agent responsible for inspecting and monitoring contractors, licensees, and grantees under the program. It also issues and maintains the National Industrial Security Program Operating Manual (NISPOM), which prescribes the specific requirements, restrictions, and other safeguards necessary under the program. Thirty-nine agencies across the executive branch have classified contracts and are subject to the NISP.

Reforming the Structure of the NISP

Like the CNSI system, the NISP requires important reforms. It is almost 30 years old and no longer supports our national security needs as it should. While ISOO has an essential role to play in the NISP because of our oversight responsibilities for the CNSI system, E.O. 12829 requires structural reforms to eliminate unnecessarily duplicative duties, align authorities with how the program is implemented, allocate my office's resources most effectively to fulfilling our core CNSI oversight mission, and strengthen and enhance DoD's role in the NISP Policy Advisory Committee (NISPPAC).

Joint Ventures Clarification

ISOO issued a clarification via ISOO Joint Notice 2024-01 with the Small Business Administration (SBA) on October 5, 2023, to provide guidance on entity eligibility determinations for joint ventures for classified work in the federal government. This notice provides agencies with guidance clarifying how the SBA regulations interact with NISP requirements.

ISOO Support for the Public Interest Declassification Board

ISOO Responsibilities

As the Acting Director of ISOO, I serve as the executive secretary of the PIDB in accordance with the Public Interest Declassification Act of 2000, as amended, and ISOO provides the PIDB with all program and administrative support. The PIDB advises the President on issues pertaining to national classification and declassification policy.

PIDB Membership

The PIDB started the year with a full board of nine members, but during the year, terms for five members expired. In October, two vacant Presidential positions were filled by Mary DeRosa and Carmen Medina and you appointed Mary DeRosa as Chair in December.

PIDB Recommendations to the President

The PIDB submitted two letters to you in FY 2023. The first supported the release of the JFK records and the requirement for agencies reviewing remaining JFK Act records certified for postponed release to prepare "Transparency Plans" for the National Declassification Center (NDC) at the National Archives. The second letter addressed the national security classification and declassification system and provided recommendations on reforming E.O. 13526. The PIDB submitted the Annual Report to Congress on March 30, 2023, which detailed the work completed during calendar year 2022.

PIDB Conferences and Panels

The PIDB began the year by co-hosting a conference entitled "America's Secrets: Classified Information and Our Democracy." This conference was co-hosted with The Clements Center for National Security, Strauss Center for International Security and Law, the Clements-Strauss Intelligence Studies Project, the LBJ Presidential Library, and the LBJ School of Public Affairs at the University of Texas at Austin. It featured keynote addresses by Director of National Intelligence Avril Haines and Senator John Cornyn, panel discussions with historians, archivists, technologists, and members of the media.

The panels focused on a wide range of issues: the importance of declassification to understanding the inner workings of the federal government; technological solutions for

classification and declassification; resources for managing classified records at the presidential libraries; the media's role in disseminating information; and the role of federal agency historians in preparing institutional histories which can be used to inform policy making. The PIDB also held a public meeting that included a discussion on reforms to the declassification system with Evan Gottesman, counsel with the Senate Select Committee on Intelligence.

On May 11, board member Benjamin Powell participated in a panel discussion sponsored by the Nonproliferation Policy Education Center (NPEC) and the American Bar Association (ABA) Standing Committee on Law and National Security on the NPEC's study on "Over-classification: How Bad Is It, What's the Fix?". The panel featured Senator Mark R. Warner, Chairman of the Senate Select Committee on Intelligence, and Senator Mike Rounds, member of the Senate Select Committee on Intelligence. Their discussion focused on challenges to the current classification and declassification system and how best to help prevent future leaks of classified information.

During the year, the PIDB met with agency representatives from the Department of State and the Office of the Secretary of Defense to discuss initiatives in developing artificial intelligence and machine learning tools for declassification. The PIDB also held discussions with other entities to discuss modernizing declassification.

**Executive Order 13549, “Classified National Security Information
Program for State, Local, Tribal, and Private Sector Entities”
Program Implementation**

ISOO Responsibilities

The State, Local, Tribal, and Private Sector Policy Advisory Committee (SLTPS-PAC) was established by E.O. 13549 to discuss program-related issues in dispute to facilitate their resolution and designated me as its executive secretary. The SLTPS-PAC also recommends changes to policies and procedures to remove impediments to the sharing of information under the program.

SLTPS-PAC Topics

Since its first meeting in January 2011, the SLTPS-PAC has taken up several issues related to the implementation of the Program. Early on, topics included the implementing directive for E.O. 13549 and the development of the elements of SLTPS security program, such as training, security compliance reviews, and security clearances.

In FY 2023, SLTPS-PAC members raised concerns about challenges they faced in obtaining clearance verification information and having clearances passed to other entities. We continue to work through these issues in FY 2024.

Appendix A: CUI Policy and Safeguarding Completion by Agency

ISOO developed deadlines with the CUI Advisory Council for phased implementation of the CUI Program at the agency level and issued them in CUI Notice 2020-01.

COLOR KEY			
Complete	Projected for 2024	Projected for 2025	Projected for Beyond 2025

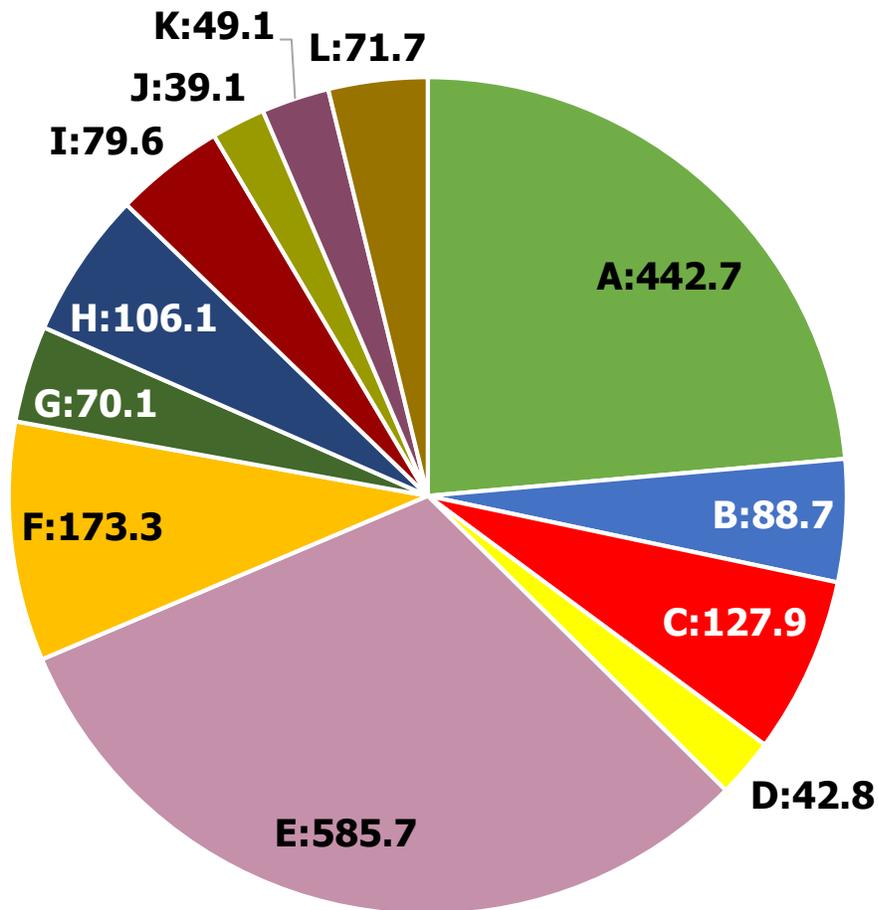
Agency	Policy Status	Safeguarding Status
Ability One Commission	8/14/2024	6/30/2024
Access Board	12/31/2024	Complete
Administrative Conference of the U.S.	9/30/2024	Complete
Advisory Council on Historic Preservation	Complete	3/30/2024
Agency for Global Media	12/31/2024	Complete
Agency for International Development	12/31/2024	12/31/2024
Barry Goldwater Scholarship and Excellence in Education Foundation	Complete	Complete
Central Intelligence Agency	12/31/2026	Complete
Commission of Fine Arts	Not Started	Not Started
Commission on Civil Rights	1/1/2029	1/1/2029
Commodity Futures Trading Commission	9/29/2024	Complete
Consumer Financial Protection Bureau	3/31/2024	12/31/2024
Consumer Product Safety Commission	12/31/2024	12/31/2024
Defense Nuclear Facilities Safety Board	Complete	Complete
Denali Commission	12/31/2024	12/31/2024
Department of Agriculture	Complete	12/31/2024
Department of Commerce	Complete	4/30/2024
Department of Defense	Complete	Complete
Department of Education	Complete	12/31/2024
Department of Energy	Complete	11/1/2024
Department of Health and Human Services	3/31/2024	3/31/2024
Department of Homeland Security	Complete	Complete
Department of Housing and Urban Development	Complete	9/30/2024
Department of Interior	Complete	9/30/2030
Department of Justice	Complete	Complete
Department of Labor	Complete	10/1/2024
Department of Transportation	Complete	9/30/2024
Department of Treasury	Complete	9/30/2024
Department of Veterans Affairs	3/30/2024	Complete
Environmental Protection Agency	Complete	12/31/2025
Export-Import Bank of the U.S.	Complete	Complete
Farm Credit Administration	Complete	6/1/2024
Federal Communications Commission	6/30/2024	6/30/2025
Federal Election Commission	5/1/2024	Complete
Federal Energy Regulatory Commission	Complete	Complete
Federal Housing Finance Agency	Complete	Complete
Federal Labor Relations Authority	3/21/2024	Complete
Federal Maritime Commission	Complete	Complete
Federal Mediation and Conciliation Service	Complete	Complete

Appendix A: CUI Policy and Safeguarding Completion
by Agency, continued

Agency	Policy Status	Safeguarding Status
Federal Mine Safety and Health Review Commission	12/31/2024	Complete
Federal Retirement Thrift Investment Board	Complete	Complete
Federal Trade Commission	Complete	Complete
General Services Administration	Complete	Complete
Institute of Museum and Library Services	11/15/2024	11/15/2024
Interagency Council on Homelessness	3/1/2025	6/1/2025
Inter-American Foundation	Complete	Complete
International Development Finance Corporation	3/1/2024	Complete
International Trade Commission	Complete	Complete
James Madison Memorial Fellowship Foundation	6/1/2024	6/1/2024
Marine Mammal Commission	12/31/2024	12/31/2024
Merit Systems Protection Board	10/1/2025	10/1/2025
Millennium Challenge Corporation	Complete	Complete
Morris K. Udall and Stewart L. Udall Foundation	9/30/2025	9/30/2025
National Aeronautics and Space Administration	Complete	Complete
National Archives and Records Administration	1/1/2025	1/1/2025
National Capital Planning Commission	4/1/2024	Complete
National Council on Disability	6/1/2024	6/1/2024
National Credit Union Administration	Complete	9/30/2024
National Endowment of the Arts	6/30/2024	6/30/2024
National Labor Relations Board	Complete	Complete
National Mediation Board	12/31/2024	12/31/2024
National Science Foundation	Complete	Complete
National Transportation Safety Board	Complete	12/31/2025
Nuclear Regulatory Commission	Complete	Complete
Nuclear Waste Technical Review Board	9/30/2024	Complete
Occupational Safety and Health Review Commission	9/30/2024	9/30/2024
Office of Personnel Management	Complete	12/31/2024
Office of Special Counsel	Complete	Complete
Office of the Director of National Intelligence	12/31/2028	Complete
Pension Benefit Guaranty Corporation	12/31/2024	Complete
Postal Regulatory Commission	9/30/2024	Complete
Securities and Exchange Commission	12/31/2024	12/30/2024
Selective Service System	Complete	Complete
Small Business Administration	Complete	8/1/2024
Social Service Administration	Complete	Complete
Surface Transportation Board	Complete	6/1/2024
Tennessee Valley Authority	12/31/2024	12/31/2024
Trade and Development Agency	9/30/2024	9/30/2024

Appendix B: Informational Graphics
Regarding Declassification

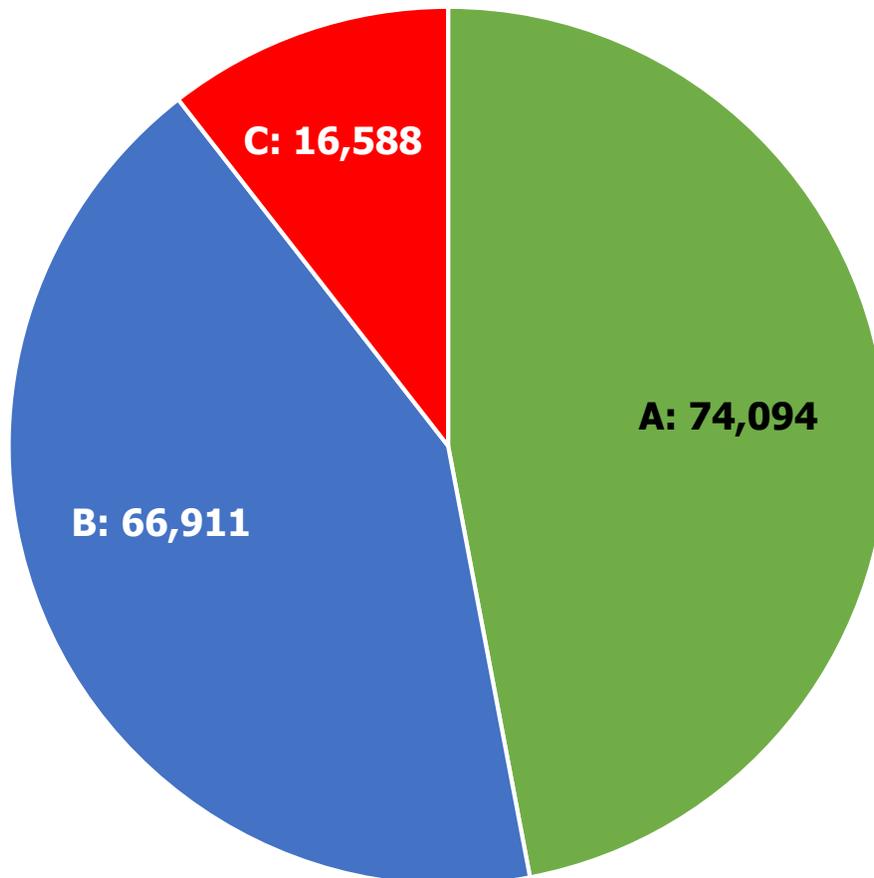
**Total Full Time Equivalent Personnel Working
Declassification by Area**



- | | |
|------------------------------|-------------------------------|
| ■ A = Automatic | ■ B = Systematic |
| ■ C = MDR | ■ D = ISCAP |
| ■ E = FOIA | ■ F = Pre-Publication Review |
| ■ G = Ad Hoc | ■ H = By Law/Regulation |
| ■ I = Court-related | ■ J = Congressionally-related |
| ■ K = NATO/International Use | ■ L = FRUS |

Appendix B: Informational Graphics
Regarding Declassification (Continued)

**Pages Reviewed via Mandatory
Declassification Review**



- A = Pages Declassified in FULL via Mandatory Declassification Review
- B = Pages Declassified in PART via Mandatory Declassification Review
- C = Pages Denied Declassification via Mandatory Declassification Review