

SERIES 400

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC, DoD)

400. GENERAL COUNSEL FILES

General Information. (Except where otherwise indicated, these files are approved under NARA job number NC1-330-76-2.) All permanent records shall be transferred to the National Archives when 30 years old, unless otherwise indicated. For Chronological Reading Files, 102-16. in this Administrative Instruction.

401. RESERVED. (103, Common Mission Files.)

402. OFFICE OF THE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

402-01. Office Functional Files.

402-01.1. Legal advice, opinions, and assistance to various committees of the Department of Defense such as: Personnel Security Programs (legal assistance on cases for the OSD Control Clearance Groups) Freedom of Information Act (DoD Directive 5400.7-R); and Interpretations of the Act, case opinions, and background information.

Disposition: Permanent. Cut off and retire to the WNRC 2 years after no longer needed for current business.

402-01.2. DoD Legislative Program. Records that relate to the review, coordination, and presentation of proposed legislation or executive actions that involve any activity of the Department of Defense.

Disposition: Permanent. Cut off and retire to WNRC when no longer needed for current business.

402-01.3. Emergency Planning and Continuity of Operations. GC, DoD's role in subject programs, legal advice on acquisition, and seizure of essential property of equipment. Inventory of essential records for the GC, DoD.

Disposition: Permanent. Retire discontinued legislation file to the WNRC 2 years after no longer needed for current business.

402-01.4. Records on court trials, administrative hearings, and other legal proceedings, correspondence, and case files.

Disposition: Permanent. Retire record copies to the WNRC 5 years after no longer needed for current business.

402-01.5. Records documenting legal terms and conditions for the acquisition, care, and occupancy of real property, such as contracts, insurance policies, leases, titles, and other similar records.

Disposition: Retirement or disposition authorized only on an individual case basis. Submit SF 135 for appropriate authorization when disposition action is desired.

402-01.6. Records on the development and establishment of policies and methods employed in civil government and related matters.

Disposition: Permanent. Retire record copies to the WNRC 2 years after no longer needed for current business.

402-02. Deputy General Counsel (Fiscal).

402-02.1. Legal advice and assistance to the OSD Welfare and Recreation Association.

Disposition: Permanent. Retire record copies to the WNRC 2 years after no longer needed for current business.

402-02.2. Directives and Policy. Legal advice on proposed directives of a fiscal nature.

Disposition: Permanent. Retire record copies to the WNRC 2 years after no longer needed for current business.

402-02.3. Collection, compromise, or termination of collection actions on DoD civil claims for money or property.

Disposition: Permanent. Retire record copies to WNRC 2 years after no longer needed for current business.

402-02.4. Legal advice on fiscal matters and coordination on fiscal directives. Records documenting legal terms and conditions of interests, tariff, and tax administration matters.

Disposition: Permanent. Retire record copies to the WNRC 2 years after no longer needed for current business.

402-03. Deputy General Counsel (Personnel and Health Policy).

402-03.1. Advice and assistance to the ASD (Personnel and Readiness, Reserve Affairs, Health Affairs) in the clearances of directives and policy, the preparation of legislative packages, and in all other aspects such as, nondiscrimination, and appeal rights that may have legal applications.

Disposition: Permanent. Retire to the WNRC when 5 years old.

402-03.2. Documents providing advice to the ASD (P&R) personnel matters such as equal opportunity, labor management relations, off-base housing.

Disposition: Permanent. Retire to the WNRC when 5 years old.

402-04. Deputy General Counsel (Acquisition and Logistics).

402-04.1. Legal directives, advice, and opinions on inventions and their licensing.

Disposition: Permanent. Retire to the WNRC when 5 years old.

402-04.2. Legal aspects of conservation and management of natural resources such as oil reserves.

Disposition: Permanent. Retire to the WNRC when 5 years old.

402-04.3. Records on the documentation of the policy for the acquisition of real property, terms and conditions of the titles, contracts, deeds, court orders, and related proceedings.

Disposition: Permanent. Retire record copies to WNRC 3 years after no longer needed for current business.

402-04.4. Legal advice on Defense Acquisition Regulation (DAR) or other procurement matters and files of procurement actions of special interest to OSD. Legal advice to the Defense Systems Acquisition Review Council on procurement activities. Advice and review of procurement contracts.

Disposition: Permanent. Retire to the WNRC when 10 years old.

402-04.5. Legal advice on general directives, instructions, and operation of logistical functions. Advice on transportation matters, proceedings before regulatory agencies, motor vehicle accidents, Homeowners Assistance Program, etc.

Disposition: Permanent. Retire to the WNRC when 10 years old.

402-04.6. Committee files. Advice and assistance to various committees in these functional areas such as the OSD Concessions Committee that require contract and lease advice.

Disposition: Permanent. Retire to the WNRC when 5 years old.

402-05. Senior Deputy General Counsel (International Affairs and Intelligence).

402-05.1. Legal advice and assistance on such international matters as: Status of Forces Agreements, jurisdiction of service courts of friendly foreign forces, review of

legality of weapons under international law. Agreements with foreign governments or international organizations.

Disposition: Permanent. Retire to the WNRC when 10 years old.

402-05.2. Legal opinions prepared for the Secretary of Defense on Defense matters under discussion or review by the Department of State.

Disposition: Permanent. Retire to the WNRC when 10 years old.

402-05.3. Directives and policy instructions to the DoD Components of the Department of Defense concerning such subjects as indicated in 402-05.1.

Disposition: Permanent. Retire to the WNRC when 10 years old.

#### 403. STANDARDS OF CONDUCT OFFICE

The dispositions included here apply EXCEPT that documents needed in an on-going investigation shall be retained until no longer needed in the investigation. GRS 25, Item 2a(2)

403-01. DoD and Defense-Related Employment Files. Reports from former military and DoD employees who accept positions with defense contractors within 2 years after separation and reports from employees of defense contractors who accept jobs with the Department of Defense. The volume of business with the Department of Defense must be in excess of \$10,000,000 per year. Reports are submitted on DD Form 1787, "Report of DoD and Defense Related Employment."

Disposition: Cut off at the end of the calendar year. Destroy when 6 years old.

403-02. Affiliations and Financial Interests Files. These files contain original copies of DD Form 1555, "Confidential Statement of Affiliations and Financial Interests Department of Defense Personnel," and DD Form 2292, "Request for Appointment or Renewal of Appointment of Consultant or Expert." These forms are renewed annually.

Disposition: Cut off at end of calendar year. Destroy when 6 years old.

403-03. Executive Financial Disclosure Reporting Files. These files contain copies of SF 278, "Executive Personnel Financial Disclosure Report," that is required to be submitted by those Government officials specified by the Ethics in Government Act of 1978. Also included are worksheets, correspondence, and other pertinent documents.

Disposition: Cut off annually. Destroy when 6 years old.

403-04. Defense Contractor Reports on Former DoD Employees. These files contain originals of reports submitted by defense contractors in accordance with 10 U.S.C. 2397 regarding certain former DoD employees. Reports are submitted in any format by

defense contractors aggregating \$10 million or more in Defense contracts.

Disposition: Cut off annually. Destroy when 6 years old.

403-05. Conflict of Interest Files. Advice and assistance on conduct and conflict of interest. Reviews and adjudication of statements of employment and financial interest.

Disposition: Destroy statements of employment and interest and related papers 2 years after the employee leaves the Agency or leaves the position in which a statement is required.

#### 404. OFFICE OF HEARINGS AND APPEALS FILES

404-01. Policy Files. Policy statements, directives, and general administrative documents on the Defense Industrial Security Clearance Review Program.

Disposition: Permanent. Cut off and retire to the WNRC when superseded or obsolete, as prescribed for files maintained in accordance with 103-01.

404-02. Investigative Report Files. Summaries and reviews and investigative reports on issuance of, or continuation of clearances, which are favorable.

Disposition: Retire to the WNRC 2 years after no longer active. Destroy 20 years later (NC1-330-77-11).

404-03. Hearing Case Files. Case files on determinations and hearings for applicants maintained by Department Counsel, Administrative Judges, and Appeal Board.

Disposition: Retire to the WNRC 2 years after no longer active. Destroy 20 years later (NC1-330-77-11).

404-04. Final Decisions. Redacted copies of final decisions of Administrative Judges and Appeal Board.

Disposition: Retain in OSD. Review for disposition in 20 years (NC1-330-77-13).

404-05. Psychiatric Consultants Files (NC1-330-79-5). Files of psychiatric consultants who have agreed to conduct examinations for the Department of Defense on individuals applying for access to classified information. Each case file consists of background historical information on consultants.

Disposition: Destroy case file 6 months after the agreement between the Department of Defense and the consultant has been terminated.

#### 405. LEGISLATIVE REFERENCE SERVICE FILES

405-01. Legislation and Opinion Files. Documents on proposed legislation and legal opinions, positions on legislative matters if of interest to the Defense Department.

Disposition: Permanent. Retire to the WNRC after no longer current or required for reference.

405-02. Document Reference and Distribution Point Files. Copies of documents, laws, acts, Federal Code, directives of legal interest used to facilitate work.

Disposition: Destroy when no longer needed for reference.

405-03. Historical Legislation. Documents, opinions, and related papers of legislative content that have historic or continuing interest.

Disposition: Permanent. Retire to the WNRC when legislation is no longer effective.

406. NON-CAREER SES (POLITICAL APPOINTEES) VETTING FILES (NC1-330-94-2)

This file consists of records collected to evaluate suitability of individuals seeking or who have been recommended for non-career positions within the Department of Defense and consist of referral letters, White House clearance letters, OPM certifications, information about individual's professional licenses, results of Federal Bureau of Investigation (FBI) and Internal Revenue Service inquiries, financial disclosure statements (SF 278), personal data questionnaires and general counsel interview sheets, published newspaper and magazine articles by and about the applicant, and other correspondence relating to the selection and appointment of political appointees. This file contains information protected under the Privacy Act of 1974 (DGC 16) and is not to be confused with file series 212.03. maintained by the White House Liaison Office and the Special Assistant to the Secretary of Defense for Personnel.

Disposition: a. Selectees: Destroy at the end of the presidential administration during which individual is hired. b. Nonselectees: Destroy records of individuals who are not hired 1 year after the file is closed, but not later than the end of the presidential administration during which the individual is considered.