



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

# EPA's National Security Information Program Could Be Improved

Report No. 12-P-0543

June 18, 2012

## REDACTED VERSION FOR PUBLIC RELEASE

This is a redacted version of the full report, which means that information has been removed. The redaction is clearly identified in the report.



Scan this mobile code to learn more about the EPA OIG.

## Report Contributors:

Chris Baughman  
Hilda Canes Garduño  
Eric Lewis

## Abbreviations

CFR	Code of Federal Regulations
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ISOO	Information Security Oversight Office
NSI	National Security Information
OARM	Office of Administration and Resources Management
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management
SF	Standard Form

## Hotline

To report fraud, waste, or abuse, contact us through one of the following methods:

**e-mail:** [OIG\\_Hotline@epa.gov](mailto:OIG_Hotline@epa.gov)  
**phone:** 1-888-546-8740  
**fax:** 202-566-2599  
**online:** <http://www.epa.gov/oig/hotline.htm>

**write:** EPA Inspector General Hotline  
1200 Pennsylvania Avenue NW  
Mailcode 2431T  
Washington, DC 20460



# At a Glance

## Why We Did This Review

The Office of Inspector General (OIG) is responsible for independently reviewing U.S. Environmental Protection Agency (EPA) programs related to national security. We evaluated EPA's classified national security information (NSI) infrastructure. We performed this review as required by the Reducing Over-Classification Act.

## Background

Executive Order 13526, *Classified National Security Information*, prescribes a uniform system for classifying, safeguarding, and declassifying national security information. According to the executive order and the related regulations, national security information can be classified as Top Secret, Secret, or Confidential, depending on the damage that may be caused by its release. The Office of Administration and Resources Management manages EPA's NSI program.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:  
[www.epa.gov/oig/reports/2012/20120618-12-P-0543.pdf](http://www.epa.gov/oig/reports/2012/20120618-12-P-0543.pdf)

## ***EPA's National Security Information Program Could Be Improved***

### What We Found

Under its classified NSI program, EPA has assigned responsibilities and provided guidance, training, and oversight. EPA program offices provide secure equipment and space, following NSI program specifications. EPA has procedures in place so employees can obtain security clearances and classify information. Annual reports are prepared on the status of the program. Thus, EPA can create, receive, handle, and store classified material needed to fulfill its responsibilities related to its homeland security, emergency response, and continuity missions.

We found that EPA's NSI program needs improved internal controls to address the following deficiencies:

- Although EPA keeps three copies of an employee's signed *Classified Information Nondisclosure Agreement*, Standard Form 312, it does not store a copy in the employee's Official Personnel Folder, as provided in guidance from the Office of Personnel Management (OPM). OPM's regulation requires that personnel records be maintained in accordance with OPM guidance.
- Not all individuals with an EPA security clearance are completing the required annual refresher training.
- EPA does not always promptly withdraw a clearance when an employee leaves EPA, which may result in a person accessing classified NSI to which he or she is no longer privileged.
- EPA regulation, policies, and basic guidance document for the NSI program do not reflect the current government-wide requirements, and the basic guidance document is currently not an Agency-wide directive even though it impacts the entire EPA.

We did not assess the readiness of EPA's NSI program in the event of an actual national security incident.

### Recommendation/Planned Agency Corrective Actions

We recommend that the Assistant Administrator for Administration and Resources Management issue a directive to establish controls that address the deficiencies identified in this report. The Agency partially agreed with our recommendation, and provided alternate corrective actions with completion dates that we consider acceptable. We consider the recommendation resolved.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

June 18, 2012

**MEMORANDUM**

**SUBJECT:** EPA's National Security Information Program Could Be Improved  
Report No. 12-P-0543

**FROM:** Arthur A. Elkins, Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", is written over the printed name.

**TO:** Craig E. Hooks  
Assistant Administrator for Administration and Resources Management

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

**Action Required**

Although this report contains a recommendation, you are not required to respond. Your response to the draft report and supplemental information identified corrective actions, including milestone dates, acceptable to us. Therefore, we are closing this report upon issuance. The corrective actions not yet completed must be monitored through EPA's Management Audit Tracking System.

Should you respond, your response will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal. We have no objections to the further release of this report to the public. We will post this report to our website at <http://www.epa.gov/oig>.

We have redacted information on page 16 of this report to withhold the name of an individual.

If you or your staff have any questions regarding this report, please contact Eric Lewis, Director of Special Reviews, at (202) 566-2664 or [lewis.eric@epa.gov](mailto:lewis.eric@epa.gov).

# Table of Contents

---

## Chapters

<b>1</b>	<b>Introduction</b> .....	<b>1</b>
	Purpose .....	1
	Background .....	1
	Scope and Methodology .....	3
<b>2</b>	<b>Internal Controls Need Improvement</b> .....	<b>4</b>
	Nondisclosure Agreements Should Be in Official Personnel Folders .....	4
	Annual Training Needs Better Monitoring .....	6
	Clearances Should Be Promptly Withdrawn When Staff Leave .....	7
	EPA's Guidance Is Not Current or in the Form of a Directive.....	8
	Guidance Revision Delayed by Pending Regulation Update .....	9
	Conclusion .....	10
	Recommendation .....	10
	Agency Response and OIG Evaluation .....	10
	<b>Status of Recommendations and Potential Monetary Benefits</b> .....	<b>12</b>

## Appendices

<b>A</b>	<b>Agency Response to Draft Report and OIG Evaluation</b> .....	<b>13</b>
<b>B</b>	<b>E-mail From U.S. Office of Personnel Management</b> .....	<b>18</b>
<b>C</b>	<b>Distribution</b> .....	<b>19</b>

# Chapter 1

## Introduction

### Purpose

The Office of Inspector General (OIG) evaluated how effectively the U.S. Environmental Protection Agency (EPA) manages its classified national security information (NSI) program and distributes classified information to those who need it. This report complies with the Reducing Over-Classification Act (Public Law 111-258), which calls for Inspectors General (1) “to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered” and (2) “to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material.” The law requires that OIGs complete at least two evaluations by September 30, 2016. The initial evaluation must be completed no later than September 30, 2013. This report, along with the prior EPA OIG report, *EPA Should Prepare and Distribute Security Classification Guides* (Report No. 11-P-0722; September 29, 2011), constitute part of the initial evaluation. The OIG may perform additional work before September 30, 2013, to comply with the law.

### Background

EPA has had a program to safeguard classified NSI since at least 1972. Such programs must comply with the December 2009 Executive Order (EO) 13526, *Classified National Security Information*, which prescribes a uniform system for classifying, safeguarding, and declassifying NSI. According to this EO and the implementing regulations, NSI can be classified as Top Secret, Secret, or Confidential, depending on the damage that may be caused by its release. EPA also has a sensitive compartmented information program that imposes access, storage, and handling controls beyond those normally required for access to information classified as Confidential, Secret, or Top Secret.

EPA creates, receives, handles, and stores classified material because of its homeland security, emergency response, and continuity missions. The EPA Administrator has had original classification authority since May 2002 and at the time could delegate the authority. In December 2009, the Administrator’s delegation authority was withdrawn, so the Administrator is the only person at EPA with original classification authority. Original classification means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure. During fiscal years 2004 through 2010, EPA originally classified six documents. In early 2011, the Administrator classified a seventh document. Although EPA has classified information, as discussed in EPA OIG Report No. 11-P-0722, it has not issued any classification guides.

Individuals may have access to classified information through EPA only if they possess a valid and appropriate security clearance; have signed a Standard Form (SF) 312, *Classified Information Nondisclosure Agreement*; and have a valid need to know the information. EPA has procedures in place to provide employees with a security clearance if their office decides the individual needs one. The Security Management Division has an electronic information system to track the related investigation and resulting clearance. EPA also has procedures to obtain a signed SF 312 from the individual after their clearance is approved. In February 2011, EPA had about 17,600 employees and 1,432 valid security clearances.

The Assistant Administrator for Administration and Resources Management has been delegated overall authority for the NSI program. The Assistant Administrator may, and has, delegated much of this authority to the Security Management Division, Office of Administration, Office of Administration and Resources Management (OARM). The Security Management Division created an NSI program team to manage the program. In addition, all major EPA offices assigned at least one employee as an NSI representative to coordinate the program at their organization. Typically, this responsibility is assigned as an additional duty. The NSI program team gives the NSI representatives supplemental training.

Each year OARM sends reports about EPA's NSI program to the Information Security Oversight Office (ISOO), National Archives and Records Administration. The ISOO is responsible for oversight of the government-wide security classification system. EPA's annual reports are based, in part, on reports provided by the NSI representatives.

EPA has procedures in place to approve secure areas for storing, processing, handling, and discussing classified NSI. With one exception, all major EPA offices have such secure areas. Except for two offices, they also have containers (e.g., safes) to store classified material. The security level of the areas and containers varies from Secret, to Top Secret, to Top Secret with sensitive compartmented information. The Security Management Division inspects the facilities on a 3-year cycle. Of the secure areas for five organizations that we visited, two organizations (Regions 3 and 8) were not storing any classified information. However, both were capable of protecting classified information, up to and including Top Secret information. The other three organizations were properly storing classified information.

With one exception, all major EPA offices have equipment for secure communications. At a minimum, each office has at least one secure telephone. The security level for the telephones varies from Secret, to Top Secret, to Top Secret with sensitive compartmented information. Some offices also have secure facsimile machines, cellular telephones, and satellite telephones. EPA also has terminals for the secure information systems of other federal agencies.

## Scope and Methodology

We performed our review from December 2010 through February 2012. We conducted our work in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives. We assessed internal controls over the NSI program.

To obtain an overall understanding of EPA's NSI program, we reviewed internal guidance, documents, and reports, as well as guidance applicable throughout the federal government. We also interviewed staff from OARM; the Office of Homeland Security, within the Office of the Administrator; and the Office of Solid Waste and Emergency Response, which works with the Office of Homeland Security to provide EPA offices with secure communication equipment.

During our field work, we examined how the NSI program operates in five EPA organizations:

- Office of Air and Radiation, Washington, DC
- Office of Research and Development's National Homeland Security Research Center, Cincinnati, Ohio
- Office of Water, Washington, DC
- Region 3, Philadelphia, Pennsylvania
- Region 8, Denver, Colorado

The process included interviewing the organizations' NSI representatives and some of its staff with security clearances; reviewing related documentation; inspecting some of the organizations' secure areas and safes; verifying the clearances of those interviewed; and verifying the annual NSI training completed by the organizations' cleared staff.

In addition to the activities of these five organizations, we verified the annual training of cleared staff in the Office of the Chief Financial Officer, and withdrawal of the security clearances for 20 cleared staff members who left EPA during the first 6 months of 2011.

We did not assess the readiness of EPA's NSI program in the event of an actual national security incident. We noted internal control deficiencies in chapter 2 of this report and in the previously mentioned OIG report on classification guides (Report No. 11-P-0722).



## Chapter 2

### Internal Controls Need Improvement

EPA has established an infrastructure that can deliver a minimum level of Secret NSI to major EPA offices, and at least 10 offices can handle higher-level classified NSI. However, we found deficiencies in the following procedural aspects of the NSI program:

- EPA does not put each employee's signed SF 312 in his or her Official Personnel Folder. The SF 312 is the legally binding classified information nondisclosure agreement between the employee and the U.S. government. OPM guidance provides for it to be kept in the employee's Official Personnel Folder.
- Annual refresher training is not being completed by everyone with an EPA security clearance. Better monitoring is needed to ensure all those with clearances complete the required training.
- Clearances are not being promptly withdrawn when an employee leaves EPA. Consequently, former employees could potentially access classified NSI to which he or she is no longer privileged.
- EPA's regulation, policies, and basic guidance document for the NSI program are out of date and do not reflect current government-wide requirements for NSI programs. Additionally, the basic guidance document does not comply with EPA requirements for directives.

As a result of these control deficiencies, EPA cannot assure that access to classified material is restricted to those who have a clearance and are appropriately trained.

#### **Nondisclosure Agreements Should Be in Official Personnel Folders**

EPA does not put an SF 312, *Classified Information Nondisclosure Agreement*, signed by an EPA employee, in his or her Official Personnel Folder. The Official Personnel Folder is part of the records of the U.S. Office of Personnel Management (OPM). As stated in OPM's regulation, 5 CFR Part 93, Subpart C, Section 293.303:

Ownership of folder.

The OPF of each employee in a position subject to civil service rules and regulations is under the jurisdiction and control of, and is part of the records of, the Office of Personnel Management (the Office).

It must contain long-term records affecting the employee's status and service, as required by OPM instructions and designated in the guidance. According to the OPM guidance, the life of the Official Personnel Folder is usually 115 years from the employee's date of birth.

Before being given access to classified information, an employee of the federal government or one of its contractors, licensees, or grantees must sign an SF 312. The SF 312 documents an employee's legally binding acceptance of obligations in consideration of being granted access to classified information. According to EPA's basic guidance document, the December 2006 *National Security Information Handbook* (handbook), the NSI representative must obtain the signature on the SF 312 after an individual completes the initial orientation training. The handbook requires the NSI representative to mail the originally signed SF 312 to the NSI program team. The Security Management Division keeps three copies of a recently signed SF 312: an electronic version in its electronic information system; a hard copy in the green security folder for the employee; and a hard copy in the binder with all the other SF 312s. As required by the implementing regulations, EPA plans to keep the SF 312s in the binder for 50 years from the date signed.

According to EPA management, it is EPA's practice to offer a copy of the SF 312 to those who sign one. Yet six individuals whom we interviewed informed us that they did not have a copy of their SF 312. These six individuals were from three organizations and had signed an SF 312. The signed SF 312 would be more readily available to EPA employees if EPA placed it in their Official Personnel Folder.

ISOO's regulation, as set forth in the Code of Federal Regulations (CFR), in 32 CFR Section 2001.80(d)(2)(vii), makes storing a copy of the SF 312 in the Official Personnel Folder optional. The ISOO regulation, published in 2010, states in part:

[A]n agency may store the executed copy of the SF 312 and SF 189 in the United States Office of Personnel Management's Official Personnel Folder as a long-term (right side) document for that employee.

While ISOO is responsible for oversight of the government-wide security classification system, it does not have responsibility for the Official Personnel Folder. OPM regulation, as set forth in 5 CFR Part 293, Subpart C, requires agencies to establish an Official Personnel Folder for each employee. The OPM regulation, published in 2011, further states:

The [Official Personnel Folder] shall contain long-term records affecting the employee's status and service as required by OPM's

instructions and as designated in the Guide to Personnel Recordkeeping.

That is, the OPM regulation requires that personnel records be maintained in accordance with OPM guidance. OPM’s guidance, *The Guide to Personnel Recordkeeping: Operating Manual*, specifically identifies the SF 312 and its predecessor, SF 189, in Section 3-G, Other Personnel Documents. The related filing instructions are to “File the Standard Form 312 and Standard Form 189 on the right side” [of the Official Personnel Folder]. Thus, the SF 312 should be in the employee’s Official Personnel Folder. The Security Management Division was unaware of the OPM guidance to store the SF 312 in the employee’s Official Personnel Folder.

## Annual Training Needs Better Monitoring

EPA offers NSI program training on its Intranet that covers the initial security orientation, being a courier of classified information, marking classified documents, and accounting for Top Secret material. EPA also offers a termination briefing when the clearance is terminated. In addition, those with a clearance must take refresher training at least once a year. In 2010, the refresher training was offered through a Lotus Notes application that recorded who had completed the training.

Not all of those who hold an EPA clearance completed the annual refresher training in 2010. The *National Security Information Handbook* requires that all such individuals must participate, annually at a minimum, in refresher training that reinforces policies and procedures of the NSI program. According to the handbook, the NSI representative shall administer the annual refresher training.

The NSI representatives for the five organizations we reviewed had procedures in place to monitor who completed the annual training. Despite these procedures, a number of people from different organizations did not complete the training, as shown in table 1 below.

**Table 1: Cleared EPA staff who did not take mandatory annual refresher training**

Organization	Number of cleared staff as of February 2011		Percent of cleared staff who did not take training
	Total	Did not take 2010 training	
Office of Research and Development	108	5	4.6
Office of Water	42	7	16.7
Region 3	73	11	15.1

Sources: Security Management Division staff (as of February 2011) and results of OIG inquiries.

In addition, we reviewed the training records for the Office of the Chief Financial Officer (OCFO) because, at that time, it had no NSI representative. Of the 14 people associated with the OCFO who have security clearances, 5 (or 35 percent)

did not complete the 2010 training. Four of the five said that they were not informed about the training. Since the OCFO had no NSI representative then, the NSI program team was responsible for monitoring its training. On September 15, 2010, the NSI program team leader sent the cleared staff in the OCFO an e-mail informing them that the 2010 annual training was available and must be completed by November 15, 2010. The e-mail included a hyperlink to the training. In August 2011, after we brought the matter to its attention, the OCFO designated an NSI representative to serve as its local advisor and point of contact for NSI-related matters.

We believe that the annual refresher training increases the likelihood that those with security clearances will properly protect classified information, and the training is particularly important to remind those with little or no contact with NSI. Once granted a clearance, individuals in some organizations were more likely than individuals in other organizations to be exposed to classified NSI. Cleared staff from three organizations (Office of Air and Radiation, National Homeland Security Research Center, and Office of Water) generally had contact with NSI. The cleared staff from the regional offices (Region 3 and Region 8) had little or no contact with classified NSI.

## **Clearances Should Be Promptly Withdrawn When Staff Leave**

EPA's list of those with security clearances should be promptly revised to reflect clearances that are, or should be, withdrawn. For example, when an employee with a clearance leaves EPA, the employee clearance should be administratively withdrawn. If the clearance is not withdrawn, the employee's name incorrectly remains on the list of those with clearances. As a consequence, the employee could potentially access classified NSI, either at EPA or another agency, to which he or she is no longer privileged. The NSI representatives consult the list before granting access to classified information. Each month, EPA provides its clearance list to OPM so it can be included in the Central Verification System. Based on information in the Central Verification System, another agency might grant someone unauthorized access to protected information.

EPA administratively withdraws a clearance when the Security Management Division receives documentation that the person received a termination briefing. The handbook requires the NSI representative to provide a termination briefing to all cleared employees who leave EPA or whose security clearance is terminated or withdrawn for other reasons. The termination briefing shall address:

- The obligation to return to the appropriate EPA official all classified information in the employee's possession
- The continuing responsibility not to disclose any classified information to which the employee had access
- The potential penalties for noncompliance

After completing the termination briefing, the employee must sign the security debriefing acknowledgement section of SF 312. The NSI representative will mail the signed SF 312 to the NSI program team.

Not all those who leave EPA receive a termination briefing; consequently, they do not sign the SF 312. Without the signed SF 312, the Security Management Division may not know to withdraw the person's clearance. Of the 20 cleared staff who left EPA during the first 6 months of 2011, 8 did not receive a termination briefing. This was due, in part, to some organizations using a separation checklist that did not require a termination briefing for those with a clearance. Even when the termination briefing is on the separation checklist, employees may not properly complete it. The Security Management Division discovered through other means that these eight individuals had left EPA, so they processed a SF 312 without the employee's signature. This process started an average of 28 days after the employee left. The employees' clearances were withdrawn an average of 60 days after they left, instead of when or before they left. Of the 12 who received a termination briefing, the clearances for 5 were withdrawn before they left EPA.

Before starting the annual refresher training, the NSI representatives are supposed to check the clearance list for accuracy. The NSI representatives' review was not always effective. When reviewing those in the five organizations who had not completed the 2010 refresher training, we found that the February 2011 clearance list included five people from four offices who had left EPA long ago, as shown in table 2.

**Table 2: Years former employees were kept on clearance list after leaving EPA**

Employee	Clearance	Left EPA	Years on list after leaving
A	Secret	January 2007	4.1
B	Secret	Unknown	At least 2 years
C	Top Secret	January 2008	3.1
D	Top Secret	July 2006	4.6
E	Top Secret	February 2002	9.0

Sources: EPA staff and OCFO Reporting and Business Intelligence Tool, or ORBIT.

## **EPA's Guidance Is Not Current or in the Form of a Directive**

EPA has issued a regulation and policies for its NSI program, including orders and a manual. As previously mentioned, the basic guidance document is the *National Security Information Handbook*, but it needs to be updated to incorporate recent changes in the national guidance. It cites EO 12958, as amended, *Classified National Security Information*, dated April 1995. However, EO 12958 was superseded by the December 2009 EO 13526. In June 2010, the ISOO revised the related regulation in 32 CFR Part 2001. OARM has been in the process of revising the handbook since at least February 2010 and expects to complete the changes by January 31, 2012.

The handbook does not incorporate the requirements of 19 sections in the CFR. Thirteen of the 19 differences between the regulation and the guidance were related to the changes made in the regulation after the handbook was issued. In general, the changes to the regulation increased the number of requirements. The requirements addressed such things as how long information remains classified, reviewing classification guides, and automatic declassification.

The remaining six differences between the regulation and the handbook pertained to storing information (§2001.43), transmitting bulky items (§2001.46), having a memorandum of agreement (§2001.49), using information standards (§2001.51), using standard forms (§2001.80), and defining terms (§2004.5).

The handbook is currently not in the form of an Agency-wide directive, even though it impacts the entire EPA. In chapter 1, paragraph 4.j., the EPA *1315 - Directives Manual* defines directives as “. . . written procedures and policy which are printed as either manuals, orders or notices.” It defines a manual as “A rather lengthy directive or combination of closely related directives which usually consists of several chapters used to prescribe or establish policies and operating procedures in functional areas.” The handbook has 11 chapters and 13 appendices. Thus, as a handbook instead of a manual, order, or notice, it does not comply with EPA requirements for the form of an Agency-wide directive. EPA had a manual that covered national security information, *Facilities Support and Services Manual, Security Volume 4850*, but it is under revision and not available.

EPA lists the *Directives Manual* on the EPA Intranet homepage for manuals, but there is no link to it as there is for other manuals. Thus, it is no longer available to EPA staff. The current version of the *Directives Manual* is dated August 1987. Portions of the *Directives Manual* are out of date, including the citation to the regulations for its legal authority. However, OARM staff confirmed that the *Directives Manual* has not been rescinded and still applies.

## **Guidance Revision Delayed by Pending Regulation Update**

Before revising the handbook, OARM plans to update the related regulation in 40 CFR Part 11. EPA issued this regulation in November 1972 based on the March 1972 EO 11652, *Classification and Declassification of National Security Information and Material*, and a national security directive dated May 1972. At that time, EPA did not have original classification authority. Three executive orders on national security information (EO 12065 dated June 1978, EO 12356 dated April 1982, and EO 12958 dated April 1995) were issued between the 1972 EO 11652 and the 2009 EO 13526. The 1972 EPA regulation would not reflect the changed requirements in these EOs, including those in the current EO. Despite the EPA Administrator having had original classification for almost 10 years, since May 2002, the regulation has yet to be updated.

## Conclusion

EPA's NSI program needs improved internal controls to address the following deficiencies:

- A signed SF 312, documenting an employee's acceptance of the obligations contained in the *Classified Information Nondisclosure Agreement* is not being put in employees' Official Personnel Folder, as provided for in OPM guidance.
- Annual refresher training is not being completed by all those with an EPA clearance, as required by the handbook.
- Clearances are not being promptly withdrawn when an employee leaves EPA, as required by the handbook.

EPA also needs to update its regulation, policies, and basic guidance document for the NSI program to reflect (1) current government-wide requirements and (2) the proper EPA form for a directive.

## Recommendation

We recommend that the Assistant Administrator for Administration and Resources Management:

1. Issue a directive to establish controls that address the following deficiencies identified in this report:
  - Put the signed SF 312 in the employee's Official Personnel Folder
  - Ensure that those with an EPA security clearance complete the annual refresher training
  - Promptly withdraw a clearance when a cleared employee leaves EPA

## Agency Response and OIG Evaluation

The Director of the Office of Administration, within OARM, responded to our draft report on behalf of OARM. OARM concurred with the draft report's findings and recommendation regarding annual refresher training, withdrawal of a clearance when a cleared employee leaves EPA, the need to update policy documents to reflect current federal requirements, and the need to comply with EPA requirements for directives. However, the Agency did not agree with the finding of a deficiency related to storing the signed SF 312 in an employee's Official Personnel Folder. While OARM did not concur with the draft report's finding in this matter, the Personnel Security Branch has begun mailing a copy of the signed SF 312 for new clearance cases to the appropriate EPA human resources service center for inclusion in the employee's Official Personnel Folder.

To support its position that it does not need to keep SF 312s in employees' Official Personnel Folder, OARM offered an e-mail dated February 24, 2012, from a Human Capital Officer at OPM. Per 5 CFR Part 293, Subpart C, the Official Personnel Folder "of each employee in a position subject to civil service rules and regulations is under the jurisdiction and control of" OPM. The OPM officer cited OPM and ISOO regulations and made contradictory statements regarding the storage of the SF 312. In one statement, the OPM officer affirmed that "OPM's Guide to Personnel Recordkeeping, page 3-19, also specifies the SF 312 is filed on the right side of the OPF [Official Personnel Folder]." This statement is immediately followed by "If an agency chooses to file the SF 312 in the OPF [Official Personnel Folder], it must be filed on the right side."

The OIG disagrees with the characterization of the filing of the SF 312 as optional. As noted earlier in this report, OPM regulation, as set forth in 5 CFR Part 293, Subpart C, states that the Official Personnel Folder "shall contain long-term records... as required by OPM's instructions and as designated in the Guide to Personnel Recordkeeping." The use of the word "shall" signals a command to include long-term records in the Official Personnel Folder. The status of the SF 312 as a long-term record is established in the Guide to Personnel Recordkeeping. First, the guide's filing procedures call for long-term records to be filed "on the right side of the personnel folder." Second, the guide's personnel folder filing instructions state, "File the Standard Form 312... on the right side." By instructing that the SF 312 be filed on the right side of the Official Personnel Folder, OPM's Guide to Personnel Recordkeeping establishes the SF 312 as a long-term record and, hence, a document that must be included in the personnel folder. When OPM's regulation is read together with the personnel folder filing instructions found in OPM's Guide to Personnel Recordkeeping, we believe that the SF 312 must be in the employee's Official Personnel Folder.

EPA has begun to provide for newly signed SF 312s to be included in employees' Official Personnel Folders. Following issuance of the draft report, OARM informed us that it will document this new practice—of mailing a copy of a signed SF 312 for a newly cleared employee to the appropriate human resources service center for inclusion in the employee's Official Personnel Folder—in a Standard Operating Procedure. OARM issued a Standard Operating Procedure for "Obtaining, Retaining, and Forwarding SF 312s" on April 9, 2012. This alternate corrective action meets the intent of our recommendation. Therefore, we consider the recommendation resolved. Where appropriate, we have incorporated the Agency's comments into the body of the report. The Agency's complete written response to the draft report, and our evaluation of the response, are in appendix A. The e-mail from OPM is in appendix B.



## **Status of Recommendations and Potential Monetary Benefits**

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	10	Issue a directive to establish controls that address the following deficiencies identified in this report: <ul style="list-style-type: none"> <li>• Put the signed SF 312 in the employee's Official Personnel Folder</li> <li>• Ensure that those with an EPA security clearance complete the annual refresher training</li> <li>• Promptly withdraw a clearance when a cleared employee leaves EPA</li> </ul>	O	Assistant Administrator for Administration and Resources Management	12/31/12		

<sup>1</sup> O = recommendation is open with agreed-to corrective actions pending  
 C = recommendation is closed with all agreed-to actions completed  
 U = recommendation is unresolved with resolution efforts in progress

## **Agency Response to Draft Report and OIG Evaluation**

March 2, 2012

### **MEMORANDUM**

**SUBJECT:** Response to Draft Report OPE-FY10-0024

**FROM:** Renee Page, Director  
Office of Administration

**TO:** Elizabeth A. Grossman, Acting Assistant Inspector General for Program  
Evaluation  
Office of Inspector General

On behalf of the Office of Administration and Resources Management, thank you for the opportunity to respond to the Office of Inspector General's draft report of February 3, 2012: *EPA's National Security Information Program Could Be Improved*. The Office of Administration and Resources Management concurs with the draft report's findings and recommendation regarding annual refresher training, withdrawal of a clearance when a cleared employee leaves EPA, the need to update policy documents to reflect current federal requirements and the need to comply with EPA requirements for directives. We do not concur with the finding of a deficiency related to storing Standard Form 312 in the Official Personnel Folder. Our planned completion date, description of corrective actions already initiated or planned and comments are below.

#### **Draft Report's Recommendation**

*Issue a directive to establish controls that address the following deficiencies identified in this report:*

- *Put the signed Standard Form 312 in the employee's Official Personnel Folder*
- *Ensure that those with an EPA security clearance complete the annual refresher training*
- *Promptly withdraw a clearance when a cleared employee leaves EPA*

#### **Planned Completion Date**

By April 30, 2012, the Security Management Division will submit an updated version of the National Security Information Handbook to the Office of Human Resources Program Management and Communications Office for the EPA directives clearance review process. The updated version will establish controls addressing annual refresher training and prompt withdrawal of a clearance when an employee leaves EPA. The document will reflect current government-wide requirements for NSI programs and comply with all requirements for EPA directives.

### Corrective Actions Already Initiated or Planned

- The NSI program has taken the first step in the review process by discussing the proposed directive with the Program Management and Communications Office.
- To ensure timely compliance with the requirement to complete annual refresher training, the Security Management Division will administratively withdraw the clearance of employees who do not comply. This information will be included in the updated Handbook; related outreach and education will be developed.
- The NSI program is modifying EPA Order 4850 to require clearance holders to notify the NSI program when they are leaving the agency so they can undergo mandatory debriefing. The Order will be submitted for the EPA directives clearance review process. The requirement will be included in the updated Handbook; related outreach and education will be developed.
- The Personnel Security Branch is now submitting a weekly list of employees whose clearance status has changed to the Office of Personnel Management for inclusion in the Central Verification System.

**OIG Response:** By May 1, 2012, OARM's Security Management Division had disseminated EPA Order 4850 and the National Security Information Manual 4850 for comment through the Agency's directives clearance process. The Security Management Division Director later informed us that EPA anticipates issuing both the Order 4850 and the Manual 4850 by December 31, 2012. Taken together with the actions listed above, the proposed corrective actions and milestones meet the intent of the recommendation.

### Comments Regarding Standard Form 312

OARM disagrees with the draft report's finding that the SF 312 is "required by government-wide guidance to be kept in the employee's Official Personnel Folder." This is not a requirement, but rather an option. Per the Information Security Oversight Office regulation set forth in 32 CFR Section 2001.80(d)(2)(vii):

For agreements executed by civilian employees of the United States Government, an agency may store the executed copy of the SF 312 and SF 189 in the United States Office of Personnel Management's Official Personnel Folder as a long-term (right side) document for that employee.

**OIG Response:** As noted earlier in this report, ISOO is responsible for oversight of the government-wide security classification system. However, ISOO does not have responsibility for the Official Personnel Folder. As stated in OPM's regulation, 5 CFR Part 93, Subpart C, Section 293.303:

Ownership of folder.

The OPF of each employee in a position subject to civil service rules and regulations is under the jurisdiction and control of, and is part of the records of, the Office of Personnel Management (the Office).

ISOO's regulation does not preclude the SF 312 from being stored in the Official Personnel Folder; they simply indicate that the storage is optional. In light of OPM having jurisdiction over

employees' Official Personnel Folders, OPM's regulation supersedes ISOO's regulation with respect to the maintenance and content of the Official Personnel Folder.

Per OPM regulations, as set forth in 5 CFR Part 293.304:

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. The folder shall contain long-term records affecting the employee's status and service as required by OPM's instructions and as designated in the Guide to Personnel Recordkeeping.

The SF 312 is not a report of selection or other personnel action named in section 2951 of title 5, USC and does not affect the employee's status and service. The Guide to Personnel Recordkeeping does not say that the SF 312 must be included in the Official Personnel Folder, but only, "File the Standard Form 312 and Standard Form 189 on the right side."

**OIG Response:** As the Agency itself notes in response to the draft report, OPM's regulation, as set forth in 5 CFR Part 293.304, states (emphasis added):

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. **The folder shall contain long-term records** affecting the employee's status and service as required by OPM's instructions and **as designated in the Guide to Personnel Recordkeeping.**

The word "shall" clearly imports compulsion and obligation.

The status of the SF 312 as a long-term record is established in OPM's Guide to Personnel Recordkeeping, which states, in Chapter 3:

Long-term documents

Long-term documents are records kept for the life of the folder... filed in chronological order on the right side of the personnel folder.

OPM's Guide to Personnel Recordkeeping states, in Section 3-G:

Personnel Folder Filing Instructions

File the Standard Form 312 and Standard Form 189 on the right side.

The imperative verb tense, "file," expresses a direct command. By instructing that the SF 312 be filed on the right side of the Official Personnel Folder, OPM's Guide to Personnel Recordkeeping establishes the SF 312 as a long-term record and, hence, a document that must be included in the personnel folder. When OPM's regulation is read together with the personnel folder filing instructions found in OPM's Guide to Personnel Recordkeeping, we believe that the SF 312 must be in the employee's Official Personnel Folder.

Office of Personnel Management Human Capital Officer [REDACTED] confirmed to EPA that there is no requirement to store the SF 312 in the Official Personnel Folder (see attached February 24, 2012, email):

As authorized in 5 CFR 293.304, OPM provides instructions in the Guide to Personnel Recordkeeping regarding the long-term records kept in the OPF 32 CFR 2001.80(d)(2)(vii) requires an agency to retain executed copies of the SF 312 in a file system, which could include the OPF 32 CFR specifies that if the OPF is used to file the SF 312, it would be filed as a long-term (right side) document. OPM's Guide to Personnel Recordkeeping, page 3-19, also specifies the SF 312 is filed on the right side of the OPF. If an agency chooses to file the SF 312 in the OPF, it must be filed on the right side.

**OIG Response:** We are not aware of the details surrounding the communications between EPA and the OPM human capital officer on this issue. However, until OPM officially changes the CFR, these comments are unsupported. OPM's regulation, as set forth in 5 CFR Part 293.304, states (emphasis added):

The head of each agency shall maintain in the Official Personnel Folder the reports of selection and other personnel actions named in section 2951 of title 5, United States Code. **The folder shall contain long-term records** affecting the employee's status and service as required by OPM's instructions and **as designated in the Guide to Personnel Recordkeeping.**

ISOO's regulation does not preclude the SF 312 from being stored in the Official Personnel folder; they simply indicate that the storage is optional. Since it is OPM, and not ISOO, that has jurisdiction over employees' Official Personnel Folders, OPM's regulation supersedes ISOO's regulation with respect to the maintenance and content of the Official Personnel Folder.

OARM's position is also supported by the National Archives and Records Administration General Records Schedule 18, item 25, "Classified Information Nondisclosure Agreements," which says that the SF 312 may be filed on the right side of the Official Personnel Folder. It does not say the SF 312 must be filed in the Official Personnel Folder.

**OIG Response:** OPM, not the National Archives and Records Administration, has jurisdiction and ownership over employees' Official Personnel Folders. OPM's regulation dictates the maintenance and content of the Official Personnel Folder.

While OARM does not concur with the draft report's finding in this matter, the Personnel Security Branch has begun mailing a copy of the signed SF 312 for new clearance cases to the appropriate Shared Services Center for inclusion in the employee's Official Personnel Folder, making it easier for employees to access the form.

**OIG Response:** Since issuance of the draft report, OARM informed us that it intends to document this new practice—of mailing a copy of a signed SF 312 for a newly cleared employee to the appropriate human resources service center for inclusion in the employee's Official Personnel Folder—in a Standard Operating Procedure. OARM issued a Standard Operating Procedure for "Obtaining, Retaining, and Forwarding SF 312s" on April 9, 2012. We accept this corrective action as an alternative to a requirement in the new directive.

### Comments Regarding Description of NSI Program Functions

The opening sentence in “At a Glance” states: “Under its classified NSI program, EPA has assigned responsibilities and provided guidance, training, facilities, equipment, and information systems to monitor some of its activities.” However, the NSI program does not provide equipment (e.g., secure telephones) or information systems. Programs and regions provide their own, following NSI program specifications. They also provide their own secure space, again following NSI program specifications, unless construction costs are over a certain threshold. We suggest that the first sentence in “At a Glance” be changed to, “Under its classified NSI program, EPA has assigned responsibilities and provided guidance, training and oversight.”

**OIG Response:** We agree to this revision of the opening sentence in the “At a Glance.”

Again, we appreciate this opportunity to respond to the draft report.

## ***E-mail From U.S. Office of Personnel Management***

*The following e-mail was submitted by an OPM Human Capital Officer to EPA on February 24, 2012.*

Subject: Guidance on Filing SF 312

OPM has responsibility for developing regulations, practices, and procedures for the establishment, maintenance, and transfer of the Official Personnel File (OPF), per 5 CFR 293.303. As authorized in 5 CFR 293.304, OPM provides instructions in the Guide to Personnel Recordkeeping regarding the long-term records kept in the OPF. 32 CFR 2001.80(d)(2)(vii) requires an agency to retain executed copies of the SF 312 in a file system, which could include the OPF. 32 CFR specifies that if the OPF is used to file the SF 312, it would be filed as a long-term (right side) document. OPM's Guide to Personnel Recordkeeping, page 3-19, also specifies the SF 312 is filed on the right side of the OPF. If an agency chooses to file the SF 312 in the OPF, it must be filed on the right side. According to 32 CFR 2001.80(d)(2)(vii), an agency must inform ISOO of the file system it uses to store the SF 312.

Links to references:

- 5 CFR 293, Subpart C – Official Personnel Folder : <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=c88c958dac1f7e27a7228d104cb931f0&rgn=div6&view=text&node=5:1.0.1.2.2.7.3&idno=5>
- 32 CFR 2001.80(d)(2)(vii): <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=8293bfcddf7b469beb41cd052512e412&rgn=div5&view=text&node=32:6.2.6.19.2&idno=32#32:6.2.6.19.2.8.29.1>
- Guide to Personnel Recordkeeping: <http://www.opm.gov/feddata/recguide2008.pdf>

## ***Distribution***

Office of the Administrator  
Assistant Administrator for Administration and Resources Management  
Agency Follow-Up Official (the CFO)  
Agency Follow-Up Coordinator  
General Counsel  
Associate Administrator for Congressional and Intergovernmental Relations  
Associate Administrator for External Affairs and Environmental Education  
Director, Office of Administration, Office of Administration and Resources Management  
Audit Follow-Up Coordinator, Office of Administration and Resources Management