

# Attachment 1: Network Account Security Management USAP

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## ACKNOWLEDGMENT OF DUTY TO PRESERVE FEDERAL RECORDS

### Part I: Notice of Duty to Preserve

Federal records created or received in the course of official business must be preserved by the sender or recipient in accordance with law. This duty applies not only to paper records, but also to any electronically stored information (ESI) that may constitute “Federal records” as defined below.

In conjunction with a user’s signing the network “Rules of Behavior,” this Notice shall also be reviewed by each user as a condition of access to the computer network facilities of any United States Attorneys’ Office (USAO) and/or the Executive Office for U.S. Attorneys (EOUSA).

The USAPs below are designed to alert new and existing users of the penalties for improper destruction of Federal records – and the need to preserve any/all information subject to a Litigation Hold (both Federal records and “non-record” materials); see:

- [USAP 3-13.300.001 \(National Records Management Program\)](#)
- [USAP 3-13.300.003 \(Legal and Litigation Hold Procedures\)](#)
- [USAP 3-16.200.003 \(Network Account Security Management\)](#)

Additionally, all departing users **must obtain prior written approval** before removing **copies** of agency materials (paper or ESI) in accordance with this [USAP 3-13.300.004 \(Network Account Records Management\)](#) and [DOJ Order 2710.8c \(Removal and Maintenance of ... Documents\)](#), which provides that originals related to DOJ operations must remain with the Office after a user departs.

### Part II: Related Authority

1. I understand that all Federal records – regardless of format (i.e., paper or ESI) – that are created or received by me during my USAO/EOUSA tenure must be preserved in accordance with Federal law, as summarized below.
2. I understand that, if and when so instructed, I must also preserve any paper or ESI (both Federal records and “non-record” materials) that may be subject to Litigation Holds.
3. Prior to departure, I understand that I must receive written approval before taking copies of any paper or ESI material that I have generated, used, or stored on USAO/EOUSA information systems.
4. I have read the following statutory and regulatory provisions:

[44 U.S.C. § 3301](#) – Definition of Federal Records:

As used in this chapter, “records” includes all . . . documentary materials, regardless of physical form or characteristics, made or received by an agency . . . under Federal law or in connection with the transaction of public business and . . . appropriate for preservation . . . as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

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## 44 U.S.C. § 3105 – Safeguards:

The head of each Federal agency shall establish safeguards against the removal or loss of records .... Safeguards shall include making it known to officials and employees of the agency—

(1) that records in the custody of the agency are not to be alienated or destroyed except in accordance with [law] ... and (2) the penalties provided by law for the unlawful removal or destruction of records.

## 44 U.S.C. § 3106 – Unlawful removal, destruction of records:

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency ... and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records he knows or has reason to believe have been unlawfully removed from his agency ....

## 36 CFR § 1230.12 – Penalties:

The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

## 18 U.S.C. § 2071 – Concealment, removal, or mutilation generally:

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined ... or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States....

Please consult <http://usanetsp.usa.doj.gov/it/ocio/records> for more on USAO/EOUSA records and information management requirements.

### **Acknowledgement:**

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_