

Form A3-2. Records Preservation Demand to an Agency and the Archivist

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Use. Counsel has reason to believe that UAP records held by an agency or contractor may be destroyed, altered, or moved beyond reach (for example, during program termination, contract closeout, reorganization, or a disclosure event). The Records Collection provisions forbid destruction or alteration of any UAP record, and the Federal Records Act requires agency heads to notify the Archivist of unlawful destruction and to seek recovery through the Attorney General. The letter puts the agency and NARA on notice and creates a record for later litigation.

When to use. Records may be destroyed or moved, for example at program termination, contract closeout, or a reorganization. **Not for:** Requests for release of the records (Forms A2-1, B1-1).

Deadlines. Send at once. NARA should be notified the same day.

[Letterhead]

[Date]

By email and certified mail

[Head of agency] and [Agency Records Officer / Senior Agency Official for Records Management]
[Address]

The Archivist of the United States

National Archives and Records Administration

Attn: Records Management Oversight and Reporting Program (Unauthorized Disposition)

8601 Adelphi Road, College Park, MD 20740

By email: UnauthorizedDisposition@nara.gov

Re: Demand for preservation of unidentified anomalous phenomena records; notice of risk of unlawful destruction

Dear [Names]:

I write on behalf of [client] concerning records relating to unidentified anomalous phenomena (“UAP”) in the possession, custody, or control of [agency], including records held for [agency] by its contractors.

The records. [Describe with as much specificity as possible without disclosing classified information: program office, date range, subject, location, contractor, contract number, type of record (documents, email, sensor data, video, physical material logs).]

The legal duty. Under the National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, §1842(a)(2)(A), 137 Stat. 136, 701 (44 U.S.C. §2107 note), “[n]o unidentified anomalous phenomena record shall be destroyed, altered, or mutilated in any way.” The Collection reaches all “Government, Government-provided, or Government-funded records” relating to UAP, technologies of unknown origin, and non-human intelligence. *Id.* §1841(a)(1)(C). Under the Federal Records Act, the head of each agency must notify the Archivist of any actual, impending, or threatened unlawful removal, alteration, or destruction of records and must initiate action through the Attorney General for their recovery, 44 U.S.C. §3106, and the Archivist must assist, 44 U.S.C. §2905(a). Records relating to UAP and to “technologies of unknown origin” also fall within the authorized-disclosure framework of 50 U.S.C. §3373b and the reporting duties of 50 U.S.C. §3373.

The risk. [Describe facts suggesting risk, e.g., announced program termination, contract closeout date, office relocation, statements by personnel, or the pendency of [client]’s FOIA request number [] or litigation.]

Demand. We ask that [agency]: 1. immediately suspend any disposition schedule that would permit destruction of the records described above; 2. instruct all custodians, including contractor custodians under [contract numbers], in writing to preserve the records in their current form, including electronic records, metadata, sensor data, and physical material logs; 3. confirm in writing within [14] days that it has done so; and 4. state whether the records have been identified as UAP records under §1842 and, if so, whether they have been transmitted to the UAP Records Collection (RG 615) or postponed, and under which ground.

We ask that the Archivist open an unauthorized-disposition inquiry under 44 U.S.C. §§2905 and 3106 if [agency] does not confirm preservation.

[If a FOIA request or litigation is pending:] [Client]'s FOIA request number [] is pending, and the records are subject to preservation obligations for that reason as well. Destruction of records subject to a pending FOIA request may result in sanctions and adverse inferences in litigation.

Nothing in this letter requests or contains classified information. If [agency] believes any portion of it does, please contact me so that we can address the matter through appropriate channels.

Sincerely,

[Name, bar admission, contact]

cc: [Agency Inspector General]; [Committee staff, if appropriate]; [Contractor general counsel]

Contractor-custodian version

[Letterhead] [Date]

By email and overnight delivery

General Counsel, [Contractor]

[Address]

cc: Contracting Officer, [agency], [contract numbers]; [Agency Records Officer]

**Re: Preservation of records relating to unidentified anomalous phenomena under
[contract numbers]**

Dear [Name]:

I represent [client] in connection with [FOIA request number __ / litigation captioned ____ / a pending inquiry].

[Contractor] holds or held records under the contracts listed above that are “Government-provided, or

Government-funded records” relating to unidentified anomalous phenomena, technologies of unknown origin, or

non-human intelligence. Pub. L. No. 118-31, §1841(a)(1)(C). “No unidentified anomalous phenomena record shall be

destroyed, altered, or mutilated in any way.” §1842(a)(2)(A). Records a contractor creates or holds for an agency

under contract are also subject to the agency’s records obligations, and the contract’s records and data clauses

may require their delivery or retention.

Please (1) suspend any routine deletion, closeout disposal, or transfer of such records, including electronic

records, metadata, sensor data, laboratory notebooks, and logs of physical material; (2) instruct the custodians in

writing to preserve them; and (3) confirm within [14] days that you have done so. If [Contractor] contends that any

such record is company property outside any contract, please preserve it as well and tell me the basis of that

position, so that the question can be resolved before anything is lost.

Nothing in this letter requests or contains classified information.

Sincerely,

[Name, bar admission, contact]

Drafting note. For contractors, send the agency version to the contracting officer as well; an agency instruction to preserve carries more weight with a contractor than a private demand. A preservation demand to a private party also supports spoliation sanctions if litigation follows (Fed. R. Civ. P. 37(e)).

Drafting note. NARA's unauthorized disposition page directs reports to UnauthorizedDisposition@nara.gov and states that its Records Management Oversight and Reporting Program handles these cases under 36 C.F.R. part 1230. Email is the faster route; send the mailed copy as well if a dated paper record matters.