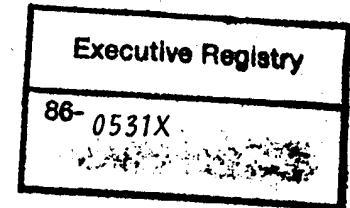


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NATIONAL SECURITY COUNCIL
 WASHINGTON, D.C. 20506

February 8, 1986



MEMORANDUM FOR
 Executive Secretary
 Central Intelligence Agency

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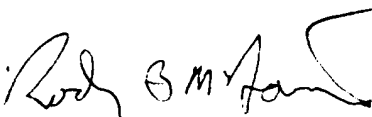
SUBJECT: CIA Classified Non-disclosure Agreement

There appears to be a misunderstanding between CIA and ISOO in the interpretation of the NSDD 84 provision requiring non-disclosure agreements to be in a format legally enforceable in civil actions brought by the United States. Pursuant to the NSDD, a classified non-disclosure agreement meeting this standard was developed by an interagency task force chaired by ISOO and attended by representatives of CIA, the DCI Security Committee and DOJ.

In mandating use of the new agreement, SF 189, it was recognized that some agencies already had more stringent non-disclosure agreements in use and thus a procedure to waive the requirement was provided. That procedure requires each agency using an alternate agreement to request a waiver from the NSC through the ISOO, whose responsibilities include ensuring the Department of Justice has determined that the respective form is enforceable and providing an Annual Report to the President on the progress of implementation of NSDD 84.

The DCI's memorandum of 24 December 1985, seems to suggest that the CIA is exempt from compliance with this provision relating to NSDD 84 as a result of section 102 (d) (3) of the National Security Act of 1947. There is, however, no apparent conflict between the provisions of the National Security Act and the necessity that CIA comply with this aspect of NSDD 84. In seeking agency wide compliance with the requirement to request a waiver from using SF 189, the ISOO Director, who under Executive Order 12356 receives policy direction from the NSC, is complying with instructions. The NSC recently directed ISOO to include in its Annual Report to the President an update on agency implementation of the SF 189.

The fact that the current CIA secrecy agreement is more stringent than the SF 189 in protecting classified information is evident from the fact that it has been determined to be legally enforceable. The requirement to use the NSDD 84 mandated SF 189 is therefore waived for the CIA, and the Director of ISOO will so note in his Annual Report to the President.


 Rodney B. McDaniel
 Executive Secretary