

- (i) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the NIAC, the functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Department of Commerce in accordance with the guidelines and procedures established by the Administrator of General Services.
- (ii) The Council shall terminate 2 years from the date of this order, unless extended by the President prior to that date.
- (iii) Executive Order 13130 of July 14, 1999, is hereby revoked.

**Sec. 11. *National Communications System.*** Changes in technology are causing the convergence of much of telephony, data relay, and internet communications networks into an interconnected network of networks. The NCS and its National Coordinating Center shall support use of telephony, converged information, voice networks, and next generation networks for emergency preparedness and national security communications functions assigned to them in Executive Order 12472. All authorities and assignments of responsibilities to departments and agencies in that order, including the role of the Manager of NCS, remain unchanged except as explicitly modified by this order.

**Sec. 12. *Counter-intelligence.*** The Board shall coordinate its activities with those of the Office of the Counter-intelligence Executive to address the threat to programs within the Board's purview from hostile foreign intelligence services.

**Sec. 13. *Classification Authority.*** I hereby delegate to the Chair the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 of April 17, 1995, as amended, or any successor Executive Order.

**Sec. 14. *General Provisions.*** (a) Nothing in this order shall supersede any requirement made by or under law.

(b) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its departments, agencies or other entities, its officers or employees, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,  
October 16, 2001.

**Executive Order 13232 of October 20, 2001**

**Further Amendment to Executive Order 10789, as Amended,  
To Authorize the Department of Health and Human Services  
To Exercise Certain Contracting Authority in Connection  
With National Defense Functions**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 50 U.S.C. 1431–35, and in order to authorize the Department of Health and Human Services to exercise certain contracting authority in connection with national defense functions, it

is hereby ordered that Executive Order 10789 of November 14, 1958, as amended, is further amended by inserting the words “Department of Health and Human Services” in the list of departments and agencies in section 21 of that order after the words “Department of Commerce.”

GEORGE W. BUSH

THE WHITE HOUSE,  
October 20, 2001.

#### Executive Order 13233 of November 1, 2001

### Further Implementation of the Presidential Records Act

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish policies and procedures implementing section 2204 of title 44 of the United States Code with respect to constitutionally based privileges, including those that apply to Presidential records reflecting military, diplomatic, or national security secrets, Presidential communications, legal advice, legal work, or the deliberative processes of the President and the President’s advisors, and to do so in a manner consistent with the Supreme Court’s decisions in *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977), and other cases, it is hereby ordered as follows:

#### Section 1. Definitions.

For purposes of this order:

(a) “Archivist” refers to the Archivist of the United States or his designee.

(b) “Presidential records” refers to those documentary materials maintained by the National Archives and Records Administration pursuant to the Presidential Records Act, 44 U.S.C. 2201-2207.

(c) “Former President” refers to the former President during whose term or terms of office particular Presidential records were created.

#### Sec. 2. Constitutional and Legal Background.

(a) For a period not to exceed 12 years after the conclusion of a Presidency, the Archivist administers records in accordance with the limitations on access imposed by section 2204 of title 44. After expiration of that period, section 2204(c) of title 44 directs that the Archivist administer Presidential records in accordance with section 552 of title 5, the Freedom of Information Act, including by withholding, as appropriate, records subject to exemptions (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(7), (b)(8), and (b)(9) of section 552. Section 2204(c)(1) of title 44 provides that exemption (b)(5) of section 552 is not available to the Archivist as a basis for withholding records, but section 2204(c)(2) recognizes that the former President or the incumbent President may assert any constitutionally based privileges, including those ordinarily encompassed within exemption (b)(5) of section 552. The President’s constitutionally based privileges subsume privileges for records that reflect: military, diplomatic, or national security secrets (the state secrets privilege); communications of the President or his advisors (the presidential communications privilege); legal advice or legal work (the attorney-