

OGC REVIEW COMPLETED

OGC 73-1107

19 June 1973

MEMORANDUM FOR: Mr. Lansdale

ILLEGIB

SUBJECT : Destruction of Agency Records

REFERENCE : OGC Opinion, 73-1033, Subj: Authority for
Destruction of Records, dtd 7 June

1. The purpose of this paper is to review the statutory enactments regarding Federal records management and destruction particularly with respect to the authorities of the Agency in order to document in detail the legal basis for the referent opinion.

2. In 1943 the Congress enacted legislation (57 Stat. 380) "... to provide for the disposal of certain records of the United States Government". The act (Section 1) defined records in very broad terms and established the National Archives Council (NAC), which was to promulgate regulations for compiling and submitting to the U.S. Archivist lists and schedules of records proposed for disposal. In addition, the NAC was to establish procedures for the disposal of records that had been authorized to be disposed of. "Such regulations, when approved by the President were to be binding on all agencies of the United States Government." The act specified that when an agency had determined that it had records with no administrative, legal, research or other value, it would provide a list of such records to the Archivist. In turn, the Archivist, upon agreeing with the agency, and pursuant to the regulations established by NAC, would submit the list to the Congress for approval to dispose of the records. Section 9 of the act required special treatment of financial

records. It stated that:

Records pertaining to claims or demands by the Government of the United States or against it, or to any accounts in which the Government of the United States is concerned, either as a debtor or creditor, shall not be disposed of by the head of any agency...until such claims, demands, and accounts have been settled and adjusted in the General Accounting Office, except on the written approval of the Comptroller General of the United States.

The act was codified as part of the provisions of Title 44 of the U.S. Code (1964 edition). Accordingly, all U.S. agencies were required to follow this procedure unless given an exemption after 7 July 1943.

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Why?

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