



Sample Clawback Agreement Language

1. Neither party is required to turn over backup tapes of electronic sources gathered before August 28, 2003, to the extent they exist, unless the party knows or should know that the back-up tape includes directly relevant material that is not duplicative of material otherwise produced.
2. Neither party is required to create new backup tapes of electronic sources after the date of this agreement, except to the extent new or revised information concerning the project is created in electronic form after the date of this agreement, and Government has not provided hard or electronic copies of the new or revised information to the Claimant.
3. Neither party is required to search for relevant information on secondary sources of electronic media, such as home computers or backup tapes, except where the party knows or should reasonably know, without review of the secondary source information itself, that the secondary source includes directly relevant material that is not duplicative of material otherwise produced.
4. Both parties agree that XXXXXXXXXXXX has collected relevant files from the parties of concern and will disclose the documents to the appellant at a mutually convenient date and time. The parties further agree that in the event that new parties of concern are identified, the XXXXXXXXXXXX will request the relevant files and disclose them to Appellant in a timely manner.
5. Both parties agree that Appellant has collected relevant files from the parties of concern and will disclose the documents to the XXXXXXXXXXXX at a mutually convenient date and time. The parties further agree that in the event that new parties of concern are identified, Appellant will request the relevant files and disclose them the XXXXXXXXXXXX in a timely manner.
6. Both parties agree that any inadvertent inclusion of any privileged material shall not result in the waiver of any associated privilege nor result in a subject matter waiver of any kind. The parties agree, however, that the disclosure of any particular material shall cease to be “inadvertent” if, 3 days after the receiving party notifies the producing party that it has received the material, the producing party does not request the return of the privileged matter pursuant to paragraph 7 below.
7. Both parties agree to return any privileged material inadvertently disclosed immediately upon notice of the disclosure.
8. Both parties agree that no copies will be made of the inadvertently disclosed materials.