



CONTROLLED UNCLASSIFIED
INFORMATION OFFICE

Controlled Unclassified Information (CUI) Office Notice 2011-01: Initial Implementation Guidance for Executive Order 13556

June 9, 2011

Purpose

This guidance implements Executive Order 13556 of November 4, 2010 (the Order).

Section 2(c) of the Order provides that the National Archives and Records Administration (NARA) shall serve as the Executive Agent (EA) to implement the Order and monitor agency implementation. Section 4(b) of the Order also requires the EA, in consultation with affected agencies, to develop and issue such directives as are necessary to implement the Order.

Scope

This guidance applies to agencies that create or handle unclassified information requiring safeguarding or dissemination controls pursuant to and consistent with applicable law, regulation, or Government-wide policy.

General Provisions

Establishment and Management of a CUI Program

Agency heads shall establish and manage an agency CUI program that develops and implements agency procedures, roles, and responsibilities regarding CUI in accordance with the Order and this guidance, provides for required training for affected personnel regarding implementation and maintenance of the agency's CUI program in accordance with this guidance, creates a self-inspection program to ensure compliance with the Order and this guidance, and designates a senior agency official to assist the agency head in CUI implementation and ensure compliance with the Order and this guidance.

Designation of Categories

Designation of information as CUI shall be limited to unclassified information requiring safeguarding or dissemination controls as set forth in law, regulation, or Government-wide

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policy. Per section 3(b) of the Order, if there is significant doubt about whether information should be designated as CUI, it shall not be so designated.

The EA shall establish the initial CUI categories based on agency submissions in accordance with sections 3(a)(2) and 4(a) of the Order.

Following initial designations, an agency head or the designated senior agency official may submit a written request to the EA for addition to or revision of existing CUI categories for review and approval. The request shall include the type of information within the agency that may meet the requirements for designation as CUI, along with a proposed marking, definition, and applicable decontrol period. Each request shall reference the authority for safeguarding or dissemination controls pursuant to law, regulation, or Government-wide policy upon which the request is based.

No safeguarding measures or limits on dissemination may be placed upon unclassified information as part of the conduct or reporting of federally-funded scientific research, except as provided in applicable statutes.

CUI Registry

Per section 4(d) of the Order, the EA shall establish and maintain a CUI registry to contain authorized CUI categories; subcategories (if necessary); citation of law, regulation, or Government-wide policy for each category; associated markings; applicable safeguarding and dissemination controls per associated authorities; and applicable decontrol requirements.

The registry shall also list sanctions specified in applicable statute or regulation along with their associated CUI categories.

The CUI registry shall be available on the NARA website to ensure public accessibility. CUI categories may not be used until the phased implementation date for marking, and the marking is approved and made available in the CUI registry.

Markings

CUI markings are intended to facilitate consistency in information sharing and a common understanding of safeguarding and dissemination controls.

CUI markings are the only markings authorized to designate unclassified information that requires safeguarding or dissemination controls. Such markings shall only be authorized when controls are required pursuant to and consistent with applicable law, regulations, and Government-wide policies.

Approved CUI markings shall be listed in the CUI registry.

All CUI markings shall be clearly applied and easily identified using the format in this guidance. Should there be extraordinary circumstances that require flexible marking practices, an agency head, or the designated senior agency official, shall submit a written request to the EA for consideration and approval of alternative methods.

The following shall be the only approved overall marking format for CUI:

CUI//Authorized Category-Subcategory (if necessary)

The EA, in consultation with affected agencies, shall issue guidance regarding the appropriate CUI markings and placement for various types of media.

Commingling CUI with classified national security information is authorized and when performed shall adhere to this guidance, as well as 32 C.F.R. Part 2001, or other issuances pursuant to Executive Order 13526 or a successor executive order.

Portion Markings

Portion marking is encouraged to facilitate information sharing and proper application of controls for CUI. Should agencies employ portion marking as a part of their information protection program, portion markings shall be placed before each section of the document containing CUI.

The following format shall be the only approved portion marking format for CUI:

(CUI//Authorized Category-Subcategory (if necessary))

Re-marking of Legacy Material

Agencies are not required to redact or re-mark legacy material when transferred to the physical or legal custody of NARA.

When legacy material is re-used, in whole or in part, legacy markings shall not be carried forward.

If a legacy document is re-used in its entirety and the information meets the standards for designation as CUI, any legacy markings shall be either struck through with a single straight line, or removed via electronic measures. Should striking through or removing the legacy marking not be practicable, an accompanying statement will indicate the appropriate CUI marking, and specify that the former marking is invalid. When legacy material is incorporated, paraphrased, or restated in part, the appropriate CUI marking shall be applied only if the information meets the requirements for designation as CUI.

Safeguarding

Agencies shall employ safeguarding measures and controls to protect CUI from unauthorized access, and to manage the risks associated with the processing, storage, handling, transmission, and destruction of CUI. Agencies shall ensure that all safeguarding measures are consistent with existing federal requirements and guidelines for CUI, including Office of Management and Budget (OMB) policies and National Institute of Standards and Technology (NIST) standards and guidelines, per section 6(a)(3) of the Order.

When law, regulation, or Government-wide policy mandates specific requirements for the safeguarding of a particular category or subcategory of CUI, these requirements shall be published in the CUI registry.

All persons responsible for the processing, storage, handling, transmission, or destruction of CUI shall take appropriate measures to prevent unauthorized access or use.

Agency-specific safeguarding controls that exceed those published in the CUI registry shall not be imposed on users outside of the implementing agency.

Dissemination

Should a law, regulation, or Government-wide policy include dissemination controls, these specific instructions shall be followed and made available for reference in the CUI registry. In the absence of specific dissemination controls per associated authorities, agencies shall disseminate CUI only to individuals who require the information for an authorized mission purpose.

The mere fact that information is designated as CUI shall not have a bearing on determinations pursuant to the Freedom of Information Act (FOIA), or any law requiring the disclosure of information or permitting disclosure as a matter of discretion, including disclosures to the legislative or judicial branches, in accordance with section 2(b) of the Order.

Decontrol

CUI shall be decontrolled as soon as possible when it no longer requires safeguarding measures and dissemination controls pursuant to its associated authorities. CUI may not be controlled indefinitely unless law, regulation, or Government-wide policy so stipulates. Each category in the registry shall indicate a specific time frame or event for applicable decontrol.

No action is necessary when CUI is decontrolled unless the information has been incorporated, restated, paraphrased, or re-used. In these cases, the CUI marking shall be either struck through with a single straight line, or removed via electronic measures.

Decontrol does not constitute public release of CUI. Public release shall be in accordance with law, regulation, and agency-specific procedures. CUI shall be decontrolled before, or no later than, the time of authorized public release.

Education and Training

At a minimum, agencies shall ensure that their personnel who create or handle CUI have a satisfactory knowledge and understanding of relevant CUI categories and associated markings, as well as applicable safeguarding, dissemination, and decontrol policies and procedures.

Initial and refresher training shall be tailored to meet the specific needs of the agency and the activities that personnel are expected to perform as determined by the individual agency. Agency programs developed pursuant to this guidance shall include the means, methods, and frequency for providing CUI training.

Agency Self-Inspections

Agency heads shall create a self-inspection program that adheres to the principles and requirements of the Order and this guidance, develop self-inspection methods, including reviews and assessments, to evaluate program effectiveness, measure the level of compliance with the Order and this guidance, and monitor the progress of CUI implementation. Agency self-inspection programs shall also integrate lessons learned from reviews and assessments to improve operational policies, procedures, and training, establish a system for corrective action to prevent and respond to non-compliance with the Order and this guidance, and provide documentation that reflects the analysis and conclusions of the self-inspection program to the EA on an annual basis and as requested by the EA.

Executive Agent Responsibilities

Implementation

The EA shall review compliance plans submitted by the agencies per sections 5(a) and 5(b) of the Order to monitor progress towards proper implementation of the Order and this guidance. Following this review, and in consultation with affected agencies and OMB, the EA shall establish deadlines for phased implementation based on agency submissions per section 5(b) of the Order.

The EA shall issue additional notices and guidance as needed for implementation of the Order, as well as for establishing and maintaining agency CUI programs. Such additional notices and guidance shall be developed in consultation with affected agencies as well as representatives of the public and State, local, tribal, and private sector partners.

Oversight

The EA shall conduct oversight to ensure that agencies have comprehensive programs in place for implementation of and compliance with the Order and this guidance. Upon request of the EA, agencies shall provide an update of CUI implementation efforts for subsequent reporting as required by section 5(c) of the Order. EA oversight may include conducting formal reviews, on-site liaison visits, and audits throughout the executive branch to evaluate agency CUI implementation, identifying information handling procedures or issues that require corrective actions, providing guidance and assistance, and conducting inquiries in response to pertinent notifications or complaints.

Additional Information

Dispute Resolution

Agencies involved in a dispute arising from an agency's implementation of the Order and this guidance shall make every effort to resolve the dispute expeditiously. Disputes should be resolved within a mutually-agreed upon time period, taking into consideration the mission, sharing, and protection requirements of the parties concerned.

If agencies party to a dispute cannot reach a mutually acceptable resolution, the dispute may be referred to the EA. The EA shall act as the impartial arbiter of the dispute. If a party to the dispute is a member of the Intelligence Community, the EA shall consult with the Office of the Director of National Intelligence.

If the EA and an agency cannot reach an agreement on an issue related to the implementation of the Order or this guidance, an appeal may be made to the President through the Director of OMB for resolution per section 4(e) of the Order.

Transfer of Records to NARA

When records, as defined by 44 U.S.C. 3301, containing CUI are transferred to the physical or legal custody of NARA, the agency shall inform NARA of the continued control of such records through an indicator on the *Records Transmittal and Receipt* (SF-135) or the *Agreement to Transfer Records to The National Archives of The United States* (SF-258). Additionally, when a physical transfer of records occurs, the appropriate CUI marking shall be placed on the outside of the box to indicate that information designated as CUI is enclosed.

If such an indication is not made on one of the aforementioned forms, the information shall be presumed to have been decontrolled prior to transfer, regardless of any CUI markings on the records.

Definitions

Agency means any “Executive agency,” as defined in 5 U.S.C. 105, and the United States Postal Service; any “Military Department” as defined in 5 U.S.C. 102; and any other entity within the executive branch that uses, handles, or stores CUI.

Associated authority means any law, regulation, or Government-wide policy that requires safeguarding and/or dissemination controls for such information that has been categorized as CUI.

Controlled Unclassified Information (CUI) means unclassified information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulation, and Government-wide policy.

CUI categories means the exclusive designations for identifying and organizing types of unclassified information that meet the standard for CUI.

CUI registry means the public listing of authorized CUI categories and subcategories, citations of applicable law, regulation, and Government-wide policy for each category, associated markings, and applicable safeguarding, dissemination, and decontrol requirements.

Decontrolled means that the information is no longer subject to CUI safeguarding and/or dissemination controls.

Dissemination means the authorized sharing of CUI amongst parties to include executive branch agencies and State, local, tribal, and private sector partners, but does not include disclosure in response to a request under the Freedom of Information Act.

Government-wide policy means a formal, written issuance including, but not limited to, an Executive Order, OMB policy, or NIST standards and guidelines that explicitly applies to executive branch agencies.

Information means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, is produced by or for, or is under the control of the United States Government.

Legacy material means sensitive unclassified material that was previously marked under agency-specific marking practices.

Portion marking means placing a parenthetical symbol immediately preceding those sections of a document containing CUI to indicate the applicable CUI category.

Public Release means the act of making information available to the general public through the approved processes of an agency.

Safeguarding means measures and controls that are prescribed to protect CUI from unauthorized access and to manage the risks associated with processing, storage, handling, transmission, and destruction of CUI.

**Please direct any questions regarding this Controlled Unclassified Information Office
Notice to: cui@nara.gov.**