

ISOO Notice 2020-03: COVID-19 Emergency Authorities for Classified National Security Information

October 2, 2020

Authorities

1. Executive Order 13526, Classified National Security Information.
2. 32 CFR 2001, Classified National Security Information.
3. DoD 5220.22M, National Industrial Security Program Operating Manual (NISPOM).
4. This guidance pertains to Federal agencies and applicable contractors and is binding on agency actions as authorized under law and similar authority. This guidance does not apply to, and is not meant to bind, the public, except as authorized by law or regulation or as incorporated into a contract.

Purpose and background

5. This Notice reminds agencies of emergency authorities provided to agency heads under 32 CFR 2001.
6. The President declared a national emergency for the COVID-19 pandemic on March 13, 2020, which remains in effect as of the date of this Notice.
7. Given the extenuating circumstances of the COVID-19 national emergency, and the continuing impact on agency operations for an indefinite time, this Notice highlights emergency authorities available to agencies pursuant to 32 CFR 2001.52 and notes limitations.
8. ISOO will keep this guidance document in effect during the COVID emergency and will periodically issue updates if additional topics arise as the COVID situation evolves. **Agencies and contractors should continue to check this guidance for updates on emergency authorization guidance and special situations during COVID.**

General guidance

9. The Information Security Oversight Office (ISOO), in its oversight role, encourages agency heads to follow the guidelines in 32 CFR 2001 and in the NISPOM for emergency situations:
 - (a) 32 CFR 2001.52, Emergency authority, paragraph (a), states that “agency heads or any designee may prescribe special provisions for the dissemination, transmission,

safeguarding, and destruction of classified information during certain emergency situations.”

(b) The NISPOM, at 5-104, Emergency procedures, states that “Contractors shall develop procedures for safeguarding classified material in emergency situations. The procedures shall be as simple and practical as possible and should be adaptable to any type of emergency that may reasonably arise. Contractors shall promptly report to the Cognizant Security Agency (CSA) any emergency situation that renders the facility incapable of safeguarding classified material.”

(c) ISOO determined in April 2020 that the COVID-19 pandemic qualifies as an emergency situation under these provisions.

Guidance related to alarm systems

10. ISOO previously issued ISOO Notice 2020-01 with respect to alternative operating methods for alarm monitoring. This guidance remains in effect during COVID.

(a) The NISPOM, at 5-906(a), states that “If the requirements [for the IDS and monitoring stations] cannot be met, the contractor may request CSA approval for an alarm system meeting one of the conditions listed [in 5-906]. CSA approval will be documented on the Alarm Description Form.”

(b) However, if the emergency situation does not allow for an alarm system meeting one of the conditions in 5-906 of the NISPOM, the CSA’s emergency authority permits them to approve other measures.

(c) Emergency circumstances such as the COVID-19 response may prevent contractors (or equivalent entities) from complying with the UL-827/UL-2050 standards for staffing and monitoring a UL Certified Central Station. In such cases, contractors/entities must discuss the situation and any proposed deviations from UL-2050/827 standards with the relevant CSA with jurisdiction over the contractor/entity and the type of classified information involved, as well as with the Government Contracting Activity (GCA).

Guidance and limitations on emergency authority related to transmission of classified national security information

11. ISOO previously issued ISOO Notice 2020-02 reminding agencies of the normal requirements for transmitting classified information.

12. However, agencies may utilize the emergency authorities under 32 CFR 2001.52 to establish alternate provisions for some aspects of transmitting classified information during the COVID emergency.

(a) For example, an agency might approve the recipient verifying their name with the carrier upon receiving the package, as an emergency alternative to requiring a signature, if signatures are not being captured by a carrier due to the national emergency.

(b) As another example, an agency might determine it is not feasible during the emergency to send only by means of a carrier that provides automated in-transit tracking of the classified information, and may thus decide to suspend the requirement for in-transit tracking.

13. However, agencies may not alter certain transmission requirements pursuant to the agency emergency authority. They are:

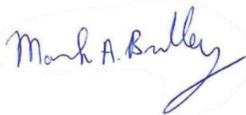
(a) You may not transmit information classified at the Top Secret level via the United States Postal Service or any other cleared or uncleared commercial carrier under any circumstances.

(b) You must ensure the “release signature” block on the receipt label is not checked or executed under any circumstances. This ensures that the carrier either collects a signature or does the carrier’s COVID-period equivalent verification of the recipient. If the block is checked, the carrier does not take any steps to verify the recipient is the addressee.

(c) You must not authorize delivery to any location or person other than the addressee and must inform the carrier of the requirement to deliver to the addressee. External (street-side) collection boxes are prohibited for classified information.

(d) You must inspect packages prior to entry into restricted spaces for evidence of tampering.

Please direct any questions regarding this ISOO Notice to: isoo@nara.gov.

A handwritten signature in blue ink that reads "Mark A. Bradley". The signature is written in a cursive style and is enclosed within a faint, light blue circular stamp.

MARK A. BRADLEY
Director