

EXECUTIVE ORDER

CONTROLLED UNCLASSIFIED INFORMATION

Information requiring some level of protection, but not meeting the standards for classified information, has been largely left to ad hoc, agency-specific policies and procedures. The lack of a clear and uniform government-wide policy for sensitive unclassified information has resulted in the inconsistent control of countless documents; created impediments to information sharing; and inappropriate disclosure. Such inconsistent practices hinder the ability of the government to use this information in an efficient and effective manner. The government must be able to safeguard and control the dissemination of information where disclosure would compromise legitimate interests, such as privacy, protection of business proprietary information, and effective law enforcement. At the same time, a democratic government must be transparent and accountable to the people. The lack of a uniform, government-wide framework for this information severely impedes these dual imperatives.

This order prescribes a uniform framework for the management of sensitive unclassified information, hereafter described as Controlled Unclassified Information (CUI). The CUI framework will provide specific guidance to replace imprecise terms such as Sensitive But Unclassified (SBU) and For Official Use Only (FOUO), thereby promoting the efficient and effective use of information, improving information sharing, and enhancing transparency.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Part 1 - STANDARDS FOR THE CONTROL OF UNCLASSIFIED INFORMATION**

**Sec. 1.1. Controlled Unclassified Information (CUI).**

(a) This order adopts, defines, and institutes CUI as the exclusive, categorical designation for identifying unclassified information requiring safeguarding and dissemination controls throughout the Executive Branch. Consistent with statutes or executive orders, no other terms or mechanisms shall be used to control unclassified information.

(b) Unclassified information may be controlled pursuant to this order only if the following conditions are met:

(1) the application of safeguarding measures or limits on dissemination are required pursuant to statute or regulation, or there exists a compelling need to apply safeguarding measures or limits on dissemination pursuant to a written agency policy approved in advance by the Executive Agent established in section 3.1 of this order; and

(2) the information is owned by, produced by or for, is under the control of the executive branch of the United States Government, or is specifically authorized by statute, regulation, or executive order to be created or controlled by entities outside the executive branch.

(c) In no case shall information be designated or marked as CUI or fail to be decontrolled solely in order to:

- (1) conceal violations of law, inefficiency, or administrative error;
- (2) prevent embarrassment to a person, organization, or agency;
- (3) restrain competition in the private sector; or

(4) prevent or delay the public release of information that does not require safeguarding or dissemination controls consistent with this order.

(d) The control of information pursuant to this order and the determination of disclosure of information pursuant to the Freedom of Information Act (FOIA) are separate and distinct functions. CUI markings shall have no bearing upon, and shall neither mandate nor preclude an agency's decision either to release information or exempt information from release pursuant to law or executive order, including but not limited to the FOIA (5 U.S.C. §552), the Presidential Records Act (44 U.S.C. §2204), and the Privacy Act of 1974 (5 U.S.C. §552a).

(e) If there is significant doubt about whether information should be controlled as CUI, it shall not be controlled.

(f) Information that has been released to the public under proper authority shall not be controlled or re-controlled except under extraordinary circumstances, or as provided by statute, and in accordance with implementing directives issued by the Executive Agent.

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

#### **Sec. 1.2. Safeguarding and Dissemination Levels.**

(a) CUI controls govern both safeguarding and dissemination.

(b) CUI will be safeguarded at one of the following two levels:

(1) *Standard*: Subject to baseline safeguarding measures that reduce the risks of significant harm from unauthorized or inadvertent disclosure of the information; or

(2) *Enhanced*: Subject to more stringent safeguarding measures than those required for standard safeguarding due to the substantial harm that would result from unauthorized or inadvertent disclosure of the information.

(c) CUI will be disseminated using one of the following two levels:

(1) *Standard*: Dissemination is authorized to any recipient requiring the information in performance of a lawful, official mission purpose; or

(2) *Limited*: Dissemination is subject to specific restrictions due to the substantial harm that would result from unauthorized or inadvertent disclosure of the information.

(d) If there is doubt about the appropriate level of safeguarding or dissemination controls, the least restrictive level shall be applied.

(e) No other terms shall be used to identify the safeguarding and dissemination levels of CUI.

#### **Sec. 1.3. Designation.**

(a) Information is designated as CUI by the Executive Agent using the following process:

(1) An agency head or senior agency official appointed pursuant to section 3.3(a)(4) of this order submits a designation recommendation, along with a proposed

decontrol time, and supporting materials, including the applicable statute, regulation, or approved agency policy, to the Executive Agent for review and approval.

(2) The Executive Agent performs a timely review of the designation recommendation in order to ensure that:

(A) the description of, authority for, justification for, and proposed levels of safeguarding and dissemination are valid; and

(B) the requested designation is consistent with or can be harmonized with prior designations and standards approved by the Executive Agent.

(3) Any concerns raised by the Executive Agent during this review shall be communicated to the agency that submitted the designation recommendation for additional explanation and resubmission.

(4) Upon approval, all authorized designations shall be recorded in the CUI Registry established pursuant to section 2.1 of this order.

(5) Agency recommendations not receiving final approval by the Executive Agent may be appealed using the established interagency policy coordination process.

(b) The following established infrastructure protection programs are designated as categories of CUI, shall be recorded in the CUI Registry consistent with their statutory and programmatic requirements at that time, and do not require the approval of the Executive Agent required in paragraph (a) of this section:

(1) 6 CFR Pt. 29 - Protected Critical Infrastructure Information;

(2) 49 CFR Pts. 15 (Department of Transportation) and 1520 (Department of Homeland Security/Transportation Security Administration) - Sensitive Security Information;

(3) 6 CFR Pt. 27 - Chemical Vulnerability Information; and

(4) 10 CFR Pt. 73 - Safeguards Information.

#### **Sec. 1.4. Challenges Concerning Designation or Assigned Levels.**

(a) Authorized holders of information who, in good faith, believe that its CUI status in general or its assigned level of safeguarding or dissemination control is improper may challenge the status of the information in accordance with agency procedures established under paragraph (b) of this section.

(b) In accordance with implementing directives issued by the Executive Agent pursuant to this order, an agency head or senior agency official shall establish procedures under which authorized holders of information, including authorized holders of information outside the originating agency, may challenge the status of information that they believe is not properly designated or controlled. Except where otherwise provided by statute or regulation, these procedures shall ensure that:

(1) individuals are not subject to reprisal for calling attention to this matter;

(2) an opportunity is provided for review by an impartial official or panel;  
and

(3) individuals are advised of their right to appeal agency decisions to the Executive Agent.

**Sec. 1.5. Decontrol.**

(a) Except as provided for in paragraph (b) of this section, information shall be decontrolled when it no longer meets the standards under section 1.1(b) of this order.

(b) Documents that contain CUI shall only be controlled for periods greater than 5 years from the date of origination where required by statute or regulation or when authorized by the Executive Agent due to the harm that would result from decontrol.

(c) Where an agency head or senior agency official determines that the need to control the information under its purview is outweighed by the public interest in disclosure that information shall be decontrolled.

(d) Decontrol is not authorization for public release, and personnel shall comply with applicable agency pre-release procedures independent of decontrol actions.

(e) CUI found within records of permanent historical value in the physical and legal custody of the National Archives and Records Administration shall be decontrolled by the Archivist of the United States in accordance with applicable law and other executive orders, and consistent with this order, its implementing directives, and any procedural agreements with relevant agencies.

**Sec. 1.6. Processing Requests for Public Release.**

(a) Information shall be deemed decontrolled either prior to public release pursuant to 5 U.S.C. §301 or when disclosure is made pursuant to the FOIA, notwithstanding section 1.5. of this order.

(b) When an agency, as part of processing any request for public release of information in its custody, identifies CUI in its possession as information originated by another agency, it shall refer copies of any request and the pertinent documents to the originating agency for processing in accordance with applicable law governing such release. The Executive Agent shall provide guidance concerning certain categories of information that are common across agencies to increase the efficiency and effectiveness of the referral process.

**Part 2 - MARKING OF CUI**

**Sec. 2.1. CUI Registry.**

(a) The Executive Agent shall establish and maintain a Registry. The Registry shall include a list of authorized designations, markings, safeguarding and dissemination controls, and categories of information that can be controlled for more than 5 years.

(b) The Registry shall be made available to the public. To the extent that any information otherwise appropriate for publication in the Registry is CUI, that information may be maintained by the Executive Agent apart from the publicly available Registry.

**Sec. 2.2. Marking.**

(a) CUI shall be uniformly and conspicuously marked to leave no doubt about the safeguarding and dissemination of the information. Implementing directives issued by the Executive Agent shall provide for the application of markings to accommodate special circumstances related to agency and mission parameters.

(b) Agencies shall establish standards and qualifications for personnel authorized to mark information as CUI, the minimum requirement of which shall be completion of either the baseline training program established and maintained by the Executive Agent pursuant to section 3.7(a) of this order or an equivalent training program approved by Executive Agent.

(c) Agency standards and qualifications under subsection (b) of this section shall take into account the sensitivity of information, the processes used to manage the information, and other factors necessary for assessing and addressing the associated risks of permitting marking of CUI by various agency personnel.

(d) Whenever practicable, a controlled addendum shall be used if CUI intended for dissemination constitutes only a minor part of a document that would otherwise be uncontrolled.

### **Sec. 2.3. Legacy Information.**

(a) When information that qualifies for control under this order contains a marking predating the effective date of this order, and it is to be disseminated outside an agency, or is to be incorporated, paraphrased, or restated in a new document, the markings shall be struck or deleted. CUI markings shall then be applied in accordance with this order and its implementing directives.

## **Part 3 - IMPLEMENTATION AND OVERSIGHT**

### **Sec. 3.1. Executive Agent.**

(a) There is established within the National Archives and Records Administration an Executive Agent for CUI.

(b) In consultation with the affected agencies, the Executive Agent shall issue such directives as necessary to implement this order. These directives shall be binding upon the agencies and shall establish and maintain standards for:

(1) designating, marking, and decontrolling CUI;

(2) safeguarding, which shall pertain to the handling, storage, transmittal, and destruction of CUI;

(3) dissemination, which shall pertain to sharing CUI with authorized recipients;

(4) CUI education and training programs;

(5) agency CUI self-inspection programs; and

(6) CUI control and decontrol guidance.

(c) In addition, the Executive Agent shall:

(1) oversee agency actions to ensure compliance with this order and its implementing directives;

(2) review and approve agency CUI implementing regulations or significant guidance prior to their issuance to ensure their consistency with this order and its implementing directives;

(3) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency such reports and

information, and other cooperation as may be necessary to fulfill its responsibilities;

(4) receive, review, coordinate, and act in a timely fashion on agency requests for CUI designation;

(5) consider and take action on complaints and suggestions from persons or entities within or outside of the executive branch with respect to the administration of the program established under this order;

(6) resolve, in accordance with applicable law, agency challenges as well as interagency disputes concerning CUI designation and decontrol, and submit unresolved issues and agency appeals through established interagency policy processes;

(7) prescribe, after consultation with affected agencies, standardization of forms or procedures that will promote the implementation of the program established under this order;

(8) convene and chair interagency meetings and, as appropriate, public meetings to discuss matters pertaining to the program established by this order;

(9) publish authorized safeguarding and dissemination standards as well as CUI designation guidance in the CUI Registry;

(10) chair the CUI Advisory Board established in section 3.2 of this order;

(11) ensure that guidance regarding the implementation of this order and its implementing directives is made available, directly or through appropriate agencies, to entities outside of the executive branch;

(12) ensure that agencies do not subject State, local, tribal, or private sector entities to redundant, inconsistent, overlapping, or unnecessary requirements and oversight regarding CUI;

(13) assess program and agency effectiveness in implementation of this order in accordance with section 3.10 of this order;

(14) as appropriate, inform the legislative and judicial branches, and State, local, tribal, and private sector entities of details regarding implementation of this order; and

(15) publish an annual report to the President, that is also made available to the Congress and the public, on the implementation of this order, including performance measures developed pursuant to section 3.10 of this order.

### **Sec. 3.2. CUI Advisory Board.**

(a) A CUI Advisory Board (the Board) is established whose members shall include senior-level representatives from the Cabinet agencies, the Office of the Director of National Intelligence, and additional agencies selected by the Chair. Each member shall be designated to serve on the Board by the respective agency head. All members shall be full-time or permanent part-time Federal officers or employees.

(b) The Executive Agent shall serve as the Chair and shall provide program and administrative support for the Board.

(c) The Board shall meet at the call of the Chair. The Chair shall schedule meetings as may be necessary for the Board to fulfill its functions in a timely manner.

(d) Functions. The Board shall:

(1) serve as the primary advisor to the Executive Agent in developing and implementing directives, procedures, guidelines, training, and standards issued by the Executive Agent pursuant to this order; and

(2) consult with entities not represented on the Board and other CUI stakeholders to gather insights, observations, and opinions on matters related in developing implementing directives, procedures, guidelines, and standards issued by the Executive Agent pursuant to this order.

**Sec. 3.3. Agency Responsibilities.**

(a) The head of each agency shall:

(1) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order;

(2) commit necessary resources to the effective implementation of the program established under this order;

(3) ensure that agency records systems are designed and maintained to optimize the appropriate sharing and safeguarding of CUI, and to facilitate its decontrol under the terms of this order when it no longer meets the standards for continued control; and

(4) designate a senior agency official to direct and administer the program, whose responsibilities shall include:

(A) overseeing the agency's program established under this order;

(B) submitting designation recommendations to the Executive Agent in accordance with section 1.3 of this order;

(C) promulgating agency implementing regulations or guidelines, which shall be published in the *Federal Register* to the extent that they affect members of the public;

(D) approving, issuing, and revising, as appropriate, CUI guidance, pursuant to section 3.5 of this order;

(E) establishing and maintaining CUI education and training programs, pursuant to section 3.7 of this order;

(F) establishing and maintaining an ongoing self-inspection and oversight program, which shall include regular reviews of the agency's CUI program pursuant to this order;

(G) establishing procedures to prevent unauthorized access to CUI within their respective agencies;

(H) ensuring that the performance of personnel whose significant tasks involve the creation or handling of CUI, including personnel who regularly apply control markings, is evaluated in substantial part on their execution of these tasks;

(I) assigning in a prompt manner agency personnel to respond to any request, appeal, challenge, complaint, or suggestion arising out of this

order that pertains to CUI that originated in a component of the agency that no longer exists and for which there is no clear successor in function;

(J) establishing a mechanism to receive information, allegations, or complaints regarding improper control of CUI within the agency and outside the agency, as appropriate, and to provide guidance to personnel on proper application of CUI standards; and

(K) ensuring existing agency regulations or policies directly affected by this order are evaluated and, if appropriate, amended.

#### **Sec. 3.4. Dissemination Outside of the Executive Branch.**

(a) To facilitate the efficient and effective exchange of CUI with other branches of the United States Government, and our State, local, tribal, and private sector partners, those entities are encouraged to adopt frameworks for the management of CUI that are complementary to this order and its implementing directives and that are in accordance with applicable information protection and disclosure programs.

(b) Guidance regarding this order and its implementing directives shall be made available, either directly or through appropriate agencies, to those non-Federal entities with which CUI is exchanged.

(c) CUI markings are not themselves a basis for withholding information from the legislative or the judicial branches.

#### **Sec. 3.5. Controlled Unclassified Information Guides.**

(a) Each agency shall prepare CUI guides to facilitate the proper and uniform designation, safeguarding, dissemination, and decontrol of CUI. These guides shall conform to the requirements of this order and its implementing directives and shall be subject to approval by the Executive Agent.

(b) Implementing directives issued pursuant to this order shall specify procedures for agency review of CUI guidance.

#### **Sec 3.6. Whistleblower Protection.**

(a) Nothing in this order shall prohibit a Federal, State, local, or tribal government employee or contractor from providing CUI to a Federal, State, local, or tribal law enforcement agency, an Inspector General's office, or a member of Congress or their staff if the employee or contractor reasonably believes that such CUI evidences a violation of law or regulation, gross mismanagement, gross waste of public funds, abuse of authority, or a substantial and specific danger to public health and safety.

#### **Sec 3.7. Training.**

(a) The Executive Agent shall establish and maintain a training program sufficient to educate individuals required to comply with CUI standards pursuant to this order and its implementing directives, including the importance of transparency to public trust in government. As appropriate, this training may be made available to entities outside of the executive branch.

(b) Agencies shall develop intermediate and advanced level agency-specific training, to address additional requirements for expertise in and qualifications for managing CUI.

(c) Both baseline training developed by the Executive Agent and training developed by agencies will be designed to ensure all appropriate personnel:

(1) understand this order and applicable CUI policies and procedures promulgated pursuant to this order; and

(2) apply them when creating, marking, safeguarding, disseminating, or decontrolling CUI.

**Sec. 3.8. Sanctions.**

(a) Officers and employees of the executive branch of the United States Government, and its contractors, licensees, certificate holders, grantees, and other individuals required to comply with CUI marking, safeguarding, and dissemination standards pursuant to this order shall be subject to appropriate administrative sanctions if they knowingly, willfully, or negligently:

(1) control or continue the control of information in violation of this order or any implementing directives;

(2) create or continue the use of unauthorized markings contrary to the requirements of this order;

(3) fail to adhere to authorized and proper safeguarding measures or limited dissemination instructions; or

(4) contravene any other provision of this order or its implementing directives.

(b) Sanctions may include reprimand, suspension without pay, removal, loss or denial of access to CUI, or other sanctions in accordance with applicable law, regulation, or implementing directives, including criminal sanctions, where applicable.

(c) Notwithstanding subsections (a) and (b) of this section, all disclosures discussed in section 3.6 of this order are protected under this order and are not subject to sanctions, unless such disclosures are otherwise prohibited by statute. Federal employees are prohibited from otherwise retaliating for the making of such disclosures.

**Sec. 3.9. CUI and Federal Acquisition Regulations.**

In coordination with the Executive Agent, the Federal acquisition regulations, including agency-specific acquisition regulations, shall be revised to address compliance with this order and its implementing directives by private entities under contract with, or seeking to contract with, the United States Government, to the extent permitted by law.

**Sec. 3.10. Investment and Performance Measures.**

(a) Agencies shall incorporate the implementation of this order and its implementing directives into their current policy, budgetary, and administrative guidance.

(b) Federal grant guidelines for State, local, and tribal governments shall be reviewed, as appropriate and to the extent permitted by law, to address implementation of the CUI requirements among State, local, and tribal entities.

(c) The Executive Agent, in coordination with the Office of Management and Budget, shall develop a system for monitoring the implementation of this order.

**Sec. 3.11. Implementation.**

(a) No later than 180 days from the effective date of this order, the Executive Agent shall issue initial guidance for the implementation of this order.

(b) Within 180 days of the issuance of initial guidance by the Executive Agent, each agency that originates or handles sensitive unclassified information shall provide the Executive Agent with a proposed plan for compliance with the requirements of this order, including the establishment of interim target dates.

(c) After review of agency plans, and in consultation with affected agencies and the National Security Staff, the Executive Agent shall establish deadlines for phased implementation by agencies.

(d) The Executive Agent shall include the status of individual agency implementation of this order in its annual report required under this order.

(e) Directives issued by the Executive Agent under section 3.1(b) of this order or changes to the infrastructure protection programs identified in section 1.3(b) of this order that may raise potential conflicts regarding CUI shall be coordinated between the Executive Agent and the responsible agencies. If such conflicts cannot be resolved between the agency and the Executive Agent, they shall be presented to the Assistant to the President for Homeland Security and Counterterrorism.

#### **Part 4 - GENERAL PROVISIONS**

##### **Sec. 4.1. Definitions.** For the purposes of this order:

(a) "Agency" means any "Executive agency," as defined in 5 U.S.C. 105; any "Military department" as defined in 5 U.S.C. 102; and any other entity within the Executive Branch that comes into the possession of CUI.

(b) "Authorized Holders of CUI" means those recipients requiring the information in performance of a lawful, official mission purpose.

(c) "Compelling Need To Apply Safeguarding or Dissemination Controls to Information" means there is a reasonable likelihood that significant or substantial harm will result if the information is not appropriately protected.

(d) "Controlled Unclassified Information" is the exclusive, categorical designation for identifying unclassified information requiring safeguarding and dissemination controls throughout the executive branch.

(e) "Designation" means the determination made, pursuant to section 1.3 of this order, that a compelling need to protect a category of information exists, the level of protection required, and the extent of dissemination authorized.

(f) "Decontrol" means the lapse of status for information previously designated as CUI from the safeguarding and dissemination control requirements of this order or an authorized action to remove such requirements.

(g) "Document" means any recorded information, regardless of the nature of the medium or the method or circumstances of recording.

(h) "Disseminate" or "Dissemination" means the release or disclosure of information under agency control to any individual, agency, or other entity.

Dissemination includes providing an individual, agency, or other entity direct access to information without physically releasing the information from agency control.

(i) "Information" means any communicable knowledge or material, regardless of its physical form or characteristics.

(j) "Safeguards" or "Safeguarding" means the physical, procedural, or electronic measures that ensure CUI is not accessed inadvertently or improperly, as prescribed in accordance with sections 3.1 and 3.3 of this order.

**Sec. 4.2. General Provisions.**

(a) This order applies to all CUI in the possession or under the control of an agency, in whatever medium used for its display, storage, or transmittal;

(b) This order shall be implemented in a manner consistent with:

(1) applicable law, including protections of information privacy rights;

(2) the statutory authority of the principal officers of agencies as heads of their respective agencies; and

(3) applicable standards and guidelines issued by the National Institute of Standards and Technology, and applicable policy established by the Office of Management and Budget regarding the safeguarding of information.

(c) The Director of National Intelligence may, with respect to the Intelligence Community and after consultation with the heads of affected agencies, issue such policy directives and guidelines as the Director of National Intelligence deems necessary to implement this order with respect to intelligence and intelligence-related information. Procedures or other guidance issued by Intelligence Community element heads shall be in accordance with such policy directives or guidelines issued by the Director of National Intelligence. Any such policy directives or guidelines issued by the Director of National Intelligence shall be in accordance with this order and directives issued by the Executive Agent.

(d) This order shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals;

(e) This order is intended only to improve the internal management of the United States Government and is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies or entities, its officers, employees, or agents, or any other person;

(f) This order shall be implemented subject to the availability of appropriations; and

(g) The Presidential memorandum issued on May 9, 2008, entitled "Designation and Sharing of Controlled Unclassified Information (CUI)" is hereby rescinded.

**Sec. 4.3. Effective Date.** This order is effective 180 days from the date of this order, except for sections 3.1, 3.2, 3.11, and 4.2 of this order, which are effective immediately.

**Sec. 4.4 Publication.** The Archivist of the United States shall publish this Executive Order in the *Federal Register*.

THE WHITE HOUSE,