Controlled Unclassified Information (CUI) Update Meeting

http://www.archives.gov/cui/

William J. Bosanko
Director, Controlled Unclassified Information Office
National Archives and Records Administration

April 17, 2009
SBU information is currently shared according to an ungoverned body of policies and practices that confuse both its producers and users.

Inconsistency in SBU policies greatly increases the likelihood of erroneous handling and sharing of information.

Across the Federal government there are at least 107 unique markings and over 130 different labeling or handling processes and procedures for SBU information.

Current SBU sharing practices not only impede the timeliness, accuracy, and ready flow of information that should be shared, but often fail to protect information in a consistent and transparent manner.
The Presidential Memorandum on the Designation and Sharing of Controlled Unclassified Information was released on May 9, 2008.

This Memorandum:

• Adopts, defines, and institutes “Controlled Unclassified Information” (CUI) as the single categorical designation for all information referred to as “Sensitive But Unclassified” (SBU) in the Information Sharing Environment (ISE); and

• Establishes a corresponding new CUI Framework for designating, marking, safeguarding, and disseminating information designated as CUI; and

• Designates the National Archives and Records Administration (NARA) as the Executive Agent, to oversee and implement the new CUI Framework.

The purpose of the CUI Framework is to standardize practices and thereby improve the sharing of information.
The Memorandum articulates what CAN and CANNOT be designated as controlled unclassified information.

**Information shall be designated as CUI...**

- If a statute so requires or authorizes; or
- The head of the originating department or agency, through regulations, directives, or other specific guidance to the agency, determines that the information is CUI. Such determination should be based on mission requirements, business prudence, legal privilege, the protection of personal or commercial rights, or safety or security. Such department or agency directives, regulations, or guidance shall be provided to the Executive Agent for his review.

**Information shall not be designated as CUI...**

- To conceal violations of law, inefficiency, or administrative error;
- To prevent embarrassment to the U.S. Government, any U.S. official, organization, or agency;
- To improperly or unlawfully interfere with competition;
- To prevent or delay the release of information that does not require such protection;
- If it is required by statute or Executive Order to be made available to the public; or
- If it has been released to the public under proper authority.
The CUI Council is assigned the following functions as directed in the May 9, 2008 Presidential Memorandum.

**Roles and Responsibilities:**

- Advises the Executive Agent in developing procedures, guidelines, and standards necessary to establish, implement, and maintain the CUI Framework;

- Serves as the primary advisor to the Executive Agent as unique issues arise pertaining to the CUI Framework;

- Ensures coordination among the departments and agencies participating in the CUI Framework; and

- Advises Executive Agent in resolving complaints and disputes among departments and agencies about proper designation or marking of CUI.

**Council Membership**

<table>
<thead>
<tr>
<th>National Archives and Records Administration (E.A. &amp; Chair)</th>
<th>Federal Bureau of Investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Justice</td>
<td>Department of Commerce</td>
</tr>
<tr>
<td>Department of Homeland Security</td>
<td>Office of Management and Budget</td>
</tr>
<tr>
<td>Office of the Director of National Intelligence</td>
<td>Department of Interior</td>
</tr>
<tr>
<td>Department of Energy</td>
<td>Department of State</td>
</tr>
<tr>
<td>Department of Defense</td>
<td>Joint Chiefs of Staff</td>
</tr>
<tr>
<td>Department of Health and Human Services</td>
<td>Department of Transportation</td>
</tr>
<tr>
<td>National Counter Intelligence Center</td>
<td>Department of Treasury</td>
</tr>
<tr>
<td>Central Intelligence Agency</td>
<td>Program Manager for the Information Sharing Environment</td>
</tr>
<tr>
<td>Environmental Protection Agency</td>
<td>Nuclear Regulatory Commission</td>
</tr>
<tr>
<td>Two State, Local, Tribal Representatives</td>
<td>Two Private Sector Representatives</td>
</tr>
</tbody>
</table>
### Status by CUI Policy Category

<table>
<thead>
<tr>
<th>Policy Category</th>
<th>Category Definition</th>
<th>Activity to Date</th>
</tr>
</thead>
</table>
| Safeguarding    | How information is stored and protected. | Introduced to CUI Council: 09/18/08  
Working Group Meetings: 3  
Iterations of Policy: 3 |
| Dissemination   | How information is passed between CUI users. | Introduced to CUI Council: 10/16/08  
Working Group Meetings: 2  
Specified Dissemination Instruction Development meetings: 3  
Iterations of Policy: 3 |
| Dispute Resolution | Reconciles differences in CUI designation between stakeholders. | Introduced to CUI Council: 12/04/08  
Iterations of Policy: 1 |
| Marking         | How information is labeled so that users are aware that they are handling CUI. | Introduced to CUI Council: 01/15/09  
Working Group Meetings: 2  
Iterations of Policy: 2 |
| Designation     | Types of information that will fall under the CUI Framework. | Introduced to CUI Council: 02/19/09  
Working Group Meetings: 2  
Iterations of Policy: 2 |
| Life Cycle      | Limits on how long information is eligible to be part of the CUI Framework | Scheduled Introduction to CUI Council: 05/21/09  
Scheduled Working Group Meetings: 2 |
| Regulatory Change | Identifies regulatory change necessary to implement the CUI Framework | Scheduled Introduction to CUI Council: 05/21/09  
Scheduled Working Group Meetings: 2 |
Freedom of Information Act & CUI

The May 9, 2008 Presidential Memorandum states that:

“CUI markings may inform but do not control the decision of whether to disclose or release the information to the public, such as in response to a request made pursuant to the Freedom of Information Act (FOIA).”
Next Steps

**General Implementation**
- Develop and populate publicly accessible web-based CUI Registry
- Develop centralized CUI Training
- Oversight function served by the CUI Executive Agent
- Increased coordination with non-Federal stakeholders

**Policy**
- Develop detailed guidance on CUI Life Cycle
- Address Regulatory Change necessary for standardization throughout departments and agencies
- Further refinement of policies to include public comment
## Guiding Principles for CUI Implementation

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Protection</strong></td>
<td>CUI will be appropriately protected.</td>
</tr>
<tr>
<td><strong>Sharing</strong></td>
<td>CUI will be shared as broadly as possible.</td>
</tr>
<tr>
<td><strong>Rationalization</strong></td>
<td>CUI policy will be developed with deliberate consideration to managing risk and information sharing.</td>
</tr>
<tr>
<td><strong>Flexibility</strong></td>
<td>CUI policy development will respond to changes through centralized management and distributed execution.</td>
</tr>
<tr>
<td><strong>Inclusiveness</strong></td>
<td>CUI policy will address the needs of all ISE partners, both users and producers of information, taking into account all media types.</td>
</tr>
<tr>
<td><strong>Standardization</strong></td>
<td>CUI policy will be standardized so all participants are governed by uniform definitions and practices.</td>
</tr>
<tr>
<td><strong>Transparency</strong></td>
<td>CUI policy will be developed with input by State, local, tribal, and private sector entities and comment by the public.</td>
</tr>
</tbody>
</table>
Challenges

- Scope
- Designation/Identification of CUI
- Life Cycle / “Decontrol”
- Safeguarding Measures
- Regulatory Change
- Accountability & Oversight
- Funding for CUI Implementation
Question & Answer Session
Contact Information

Controlled Unclassified Information Office
National Archives and Records Administration
700 Pennsylvania Avenue, N.W., Room 100
Washington, DC 20408-0001

(202) 357-6870 (voice)
(202) 357-6871/72 (fax)
cui@nara.gov
www.archives.gov/CUI