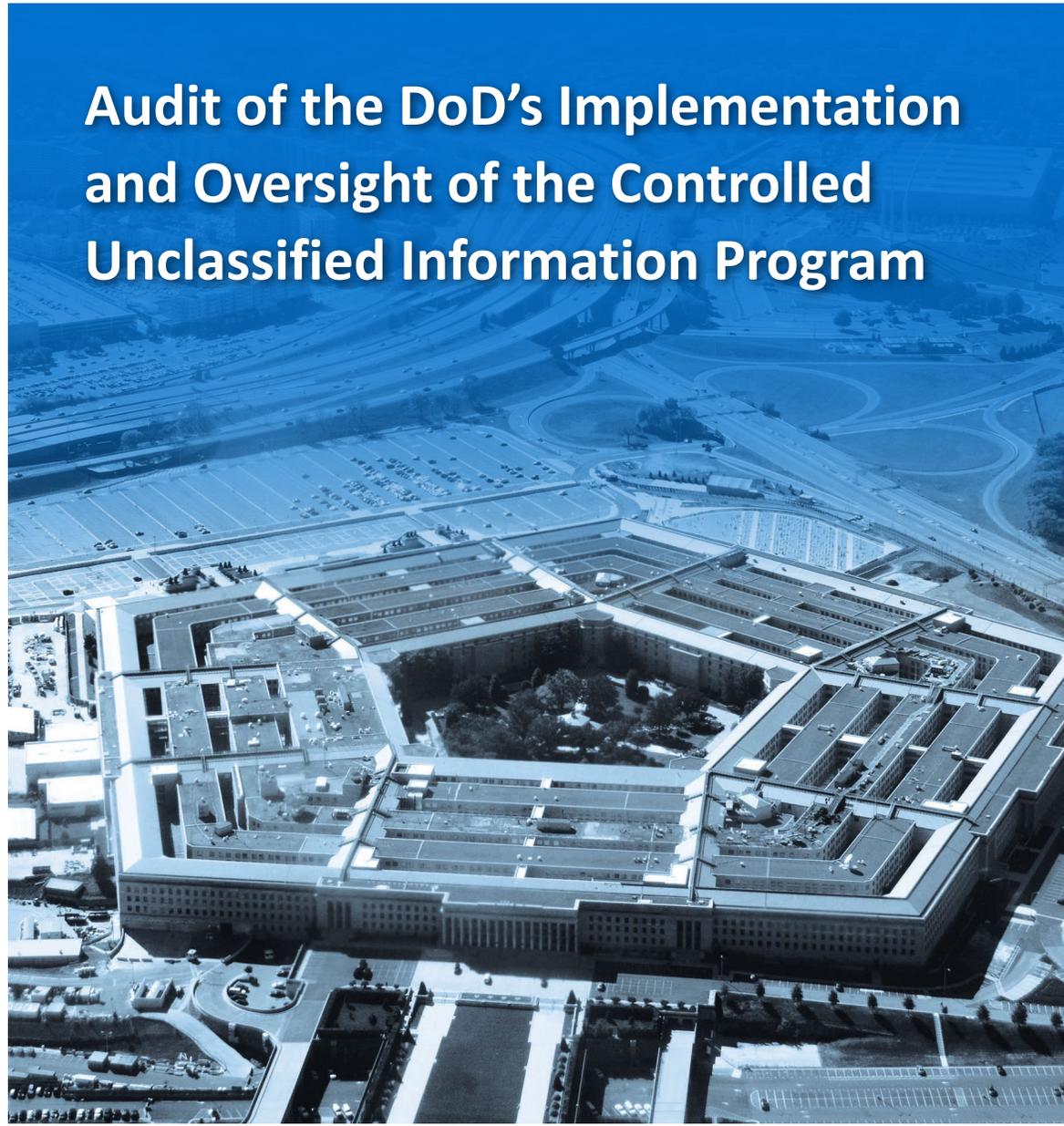




INSPECTOR GENERAL

U.S. Department of Defense

JUNE 1, 2023



Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





Results in Brief

Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program

June 1, 2023

Objective

The objective of this audit was to determine the extent to which the DoD developed guidance, conducted training, and oversaw the implementation of the DoD Controlled Unclassified Information (CUI) Program. We also reviewed a sample of documents that were identified by the DoD Components and contractors as containing CUI to determine whether the documents had CUI headers and footers, a designation indicator, and portion markings as required by DoD guidance (referred to as the required markings throughout this report). CUI is information created or possessed for the Government that requires safeguarding or dissemination controls according to applicable laws, regulations, and Government-wide policies. We will continue to explore opportunities for additional oversight on the implementation of the DoD CUI Program.

Background

Executive Order 13556, "Controlled Unclassified Information," established a Government-wide program to standardize the way the Executive Branch handles unclassified information that requires safeguarding or dissemination controls. DoD Instruction 5200.48, "Controlled Unclassified Information," established the DoD CUI Program requirements for designating, marking, handling, and decontrolling CUI and establishes a requirement for CUI training.

Unnecessarily restricting the dissemination of DoD information by marking it CUI when the information does not require

Background (cont'd)

CUI marking or using limited dissemination controls (LDCs) inappropriately can limit the transparency of information that should be available for a wider audience. In the Senate Armed Services Committee's request for this audit, the Committee expressed concern that DoD Components were using LDCs without having a legitimate rationale, thereby limiting transparency.

The National Archives and Records Administration (NARA) and DoD CUI Registries state that the FED ONLY and FEDCON LDCs authorize the sharing of CUI only with employees of the Executive Branch, which by definition excludes Congress. That exclusion contradicts a statement made to us by a NARA official, who stated that LDCs were not intended to prevent Congress from receiving documents with the required markings or impede Congressional oversight.

Findings

Although the Office of the Under Secretary of Defense for Intelligence and Security (OUSD[I&S]) established CUI guidance, the DoD Components did not effectively oversee the implementation of that guidance to ensure that CUI documents and e-mails contained the required markings and that DoD and contractor personnel completed the appropriate CUI training. These conditions occurred because the DoD Components did not have mechanisms in place to ensure that CUI documents and e-mails included the required markings, and the OUSD(I&S) did not require the DoD Components to test, as part of the Components' annual reporting process, a sample of CUI documents to verify whether the documents contained the required markings. In addition, not all of the DoD Components and contracting officials tracked whether their personnel completed the required CUI training. The use of improper or inconsistent CUI markings and the lack of training can increase the risk of the unauthorized disclosure of CUI or unnecessarily restrict the dissemination of information and create obstacles to authorized information sharing. Furthermore, the DoD will not meet the intent of Executive Order 13556 to standardize the way the Executive branch handles CUI.



Results in Brief

Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program

Recommendations

We made 14 recommendations to address the findings in this report, to include that the USD(I&S) coordinate with DoD Component Heads to develop and implement a DoD-wide solution for automatically populating documents and e-mails with the required markings based on a set of selection criteria. In addition, we recommend that the USD(I&S) coordinate with NARA to clarify NARA's intent regarding sharing CUI information with Congress and updating DoD CUI guidance to reflect NARA's intent. Furthermore, we recommend that the Defense Pricing and Contracting Principal Director direct DoD contracting officers to verify that contractor-developed CUI training meets the requirements of DoD CUI guidance and that contractors maintain documentation of completed CUI training for audit purposes.

Management Comments and Our Response

Officials from the Army Training and Doctrine Command and the Secretary of the Air Force agreed with the recommendations and described actions planned and taken to resolve the recommendations. The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security agreed with the recommendations, and their planned actions were sufficient to resolve six of the eight recommendations.

The other two comments from the Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security and comments from the Defense Pricing and Contracting Principal Director partially addressed the recommendations. Further, comments from the Missile Defense Agency Executive Director did not address the recommendations and the Chief of Naval Operations did not provide comments to the draft report. Therefore, those recommendations are unresolved. We request that the Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security; Defense Pricing and Contracting Principal Director; Missile Defense Agency Executive Director; and Chief of Naval Operations provide additional comments within 30 days.

Please see the recommendations table on the next page for the status of recommendations.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Under Secretary of Defense for Intelligence and Security	A.1.a, A.1.e	A.1.b, A.1.c, A.1.d, A.1.f, A.1.g, A.1.h	None
Principal Director, Defense Pricing and Contracting	B.1.a, B.1.b	None	None
Commanding General, Army Training and Doctrine Command	None	A.2	None
Chief of Naval Operations	A.3	None	None
Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force	None	A.4	None
Director, Missile Defense Agency	B.2	None	None

Please provide Management Comments by June 30, 2023.

Note: The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – DoD OIG verified that the agreed upon corrective actions were implemented.

Recommendations Table for Report No. DODIG-2021-135

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Under Secretary of Defense for Intelligence and Security	None	None	1





**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

June 1, 2023

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program (Report No. DODIG-2023-078)

This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

This report contains six recommendations that are considered unresolved because management officials did not fully address the recommendations presented in the report. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, the recommendations remain open. We will track these recommendations until an agreement is reached on the actions that need to be taken to address the recommendations, and management submits adequate documentation showing that all agreed-upon actions are completed.

This report also contains eight recommendations that are considered resolved. Therefore, as described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when we receive documentation showing that all agreed-upon actions to implement the recommendations are completed.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. For the unresolved recommendations, within 30 days please provide us your comments concerning specific actions in process, or alternative corrective actions proposed on the recommendations. For the resolved recommendations, within 90 days please provide us documentation showing that the agreed-upon action has been completed. Your response should be sent as a PDF file to either to audcso@dodig.mil if unclassified or [REDACTED] if classified SECRET. Responses must have the actual signature of the authorizing official for your organization.

We appreciate the cooperation and assistance received during the audit. If you have any questions, please contact me at [REDACTED]

FOR THE INSPECTOR GENERAL:

A handwritten signature in cursive script, reading "Carol N. Gorman", is positioned above the typed name.

Carol N. Gorman
Assistant Inspector General for Audit
Cyberspace Operations and Acquisition,
Contracting, and Sustainment

Distribution:

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Contents

Introduction

Objective.....	1
Background.....	1
Review of Internal Controls.....	11

Finding A. DoD Developed CUI Guidance but Did Not Effectively Oversee Its Implementation..... 12

DoD Component Personnel Did Not Consistently Apply the Required Markings as Required by DoD Guidance.....	13
DoD Components Did Not Have Mechanisms in Place to Ensure That Personnel Consistently Applied the Required Markings.....	19
DoD Component Personnel Did Not Consistently Complete CUI Training.....	20
DoD Does Not Require DoD Components to Test a Sample of CUI Documents as Part of the Annual CUI Program Implementation Report.....	21
Implementation of DoD’s CUI Program Requires Continued Emphasis and Oversight.....	22
Management Comments on the Finding and Our Response.....	24
Recommendations, Management Comments, and Our Response.....	25

Finding B. Contracting Officials Did Not Consistently Ensure That DoD Contractors Completed or Tracked CUI Training..... 32

DoD Contractors Generally Applied the Required Markings as Required by DoD Guidance.....	32
Contracting Officials Did Not Consistently Verify Whether DoD Contractors Completed or Tracked CUI Training.....	34
Management Comments on the Finding and Our Response.....	36
Recommendations, Management Comments, and Our Response.....	37

Contents (cont'd)

Appendixes

Appendix A. Scope and Methodology.....	41
Internal Control Assessment and Compliance.....	43
Use of Computer-Processed Data	43
Use of Technical Assistance.....	43
Prior Coverage	44
Appendix B. Sampling Approach.....	45

Management Comments

Army.....	48
United States Army Training and Doctrine Command.....	50
Marine Corps	56
Air Force.....	79
363d Intelligence, Surveillance, and Reconnaissance Wing.....	81
Air Force Research Laboratory.....	82
Space Force.....	84
11th Delta Operations Squadron.....	84
Director, Operational Test and Evaluation.....	85
Defense Pricing and Contracting.....	86
Defense Intelligence, Counterintelligence, Law Enforcement, and Security.....	87
Missile Defense Agency.....	89

Acronyms and Abbreviations.....	93
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Introduction

Objective

The objective of this audit was to determine the extent to which the DoD developed guidance, conducted training, and oversaw the implementation of the DoD Controlled Unclassified Information (CUI) Program. We also reviewed a sample of documents that were identified by the DoD Components and contractors as containing CUI to determine whether the documents had CUI headers and footers, a designation indicator, and portion markings as required by DoD guidance (referred to as the required markings throughout this report). CUI is information created or possessed for the Government that requires safeguarding or dissemination controls according to applicable laws, regulations, and Government-wide policies. CUI is not classified information as defined in Executive Order 13526, “Classified National Security Information,” December 29, 2009.

We conducted this audit at the direction of the Senate Armed Services Committee to review CUI marking guidance, training, and oversight.¹ See Appendix A for a discussion on the scope and methodology and language from the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 supplemental report; and Appendix B for our detailed sampling approach for selecting the DoD Components and contractors we assessed during the audit. We will continue to explore opportunities for additional oversight on the implementation of the DoD CUI Program.

Background

On November 4, 2010, President Barack Obama signed Executive Order 13556, “Controlled Unclassified Information,” which established a Government-wide program to standardize the way the Executive Branch handles unclassified information that requires safeguarding or dissemination controls in accordance with law, regulations, and government-wide policies. Before Executive Order 13556, Federal agencies used different markings to identify similar types of information such as “For Official Use Only (FOUO)” used by the DoD; “Sensitive but Unclassified,” used by the Department of State and other agencies; and “Law Enforcement Sensitive,” used by Government law enforcement agencies.

¹ The Senate Armed Services Committee’s Report Accompanying S. 4543, “James M. Inhofe National Defense Authorization Act for Fiscal Year 2023,” directed the DoD Inspector General to provide a report to the congressional defense committees not later than June 1, 2023.

Executive Order 13556 states that the different markings used across the Executive Branch resulted in the inconsistent marking and safeguarding of documents, led to unclear or unnecessary restrictive dissemination policies, and prevented authorized information sharing. To address those problems, Executive Order 13556 requires Executive Branch agencies to use the marking CUI for all unclassified information that requires safeguarding or dissemination controls.

National Archives and Records Administration CUI Registry

Title 32 Code of Federal Regulations (CFR) section 2002 codified Executive Order 13556, which established the National Archives and Records Administration (NARA) as the agency responsible for implementing the Executive Branch-wide CUI Program and overseeing actions to comply with the Executive Order.² NARA, through its Information Security Oversight Office, maintains the National CUI Registry, which is an online repository that includes CUI policy and practices. The National CUI Registry identifies all categories and subcategories of CUI, provides a general description for each category, establishes markings, and includes guidance on handling procedures. Examples of CUI categories include operational, contracting, personnel, medical, and export-controlled information.

NARA allows agencies to place limits and additional protections on CUI by applying limited dissemination controls (LDC). According to the CUI Registry, agencies may only apply an LDC if they have a “lawful government purpose” and may not use LDCs to unnecessarily restrict CUI. Table 1 lists the LDCs included in the National CUI Registry and a description of each LDC.

Table 1. CUI Limited Dissemination Controls

Limited Dissemination Control	Description
No foreign dissemination (NOFORN/NF)	No dissemination is authorized, in any form, to foreign governments, foreign nationals, foreign or international organizations, or non-U.S. citizens.
Federal employees only (FED ONLY)	Dissemination authorized only to employees of Executive Branch departments and agencies, or armed forces personnel of the United States.
Federal employees and contractors only (FEDCON)	Dissemination authorized only to employees of Executive Branch departments and agencies, armed forces personnel of the United States or Active Guard and Reserve, or individuals or employers who enter into a contract with the departments and agencies if dissemination is for contractual purposes.
No dissemination to contractors (NOCON)	No dissemination authorized to individuals or employers who enter into a contract with the United States.

² Title 32 Code of Federal Regulation section 2002, “Controlled Unclassified Information,” 2016.

Table 1. CUI Limited Dissemination Controls (cont'd)

Limited Dissemination Control	Description
Dissemination list controlled (DL ONLY)	Dissemination authorized only to those individuals, organizations, or entities included on an accompanying dissemination list.
Releasable by information disclosure official (RELIDO)	A permissive foreign disclosure and release marking used on information to indicate that the originator has authorized a Senior Foreign Disclosure and Release Authority to make further sharing decisions for intelligence material.
Authorized for release to certain nationals only (REL TO [USA, LIST])	Information has been predetermined by the designating agency to be releasable or has been released only to the foreign country(ies)/international organization(s) indicated, through established foreign disclosure procedures and channels.
Display only ([DISPLAY ONLY [USA, LIST])	Information is authorized for disclosure to a foreign recipient but without providing the foreign recipient with a physical copy for retention.
Attorney-client (Attorney-Client/AC)	Dissemination of information protected by the attorney-client privilege beyond the attorney, the attorney's agents, or the client is prohibited by this marking unless the agency's executive decision-makers decide to disclose the information outside the bounds of its protection.
Attorney work product (Attorney-WP/AWP)	Dissemination of information protected by the attorney work product privilege beyond the attorney, the attorney's agents, or the client is prohibited by this marking unless specifically permitted by the overseeing attorney who originated the work product or their successor.

Source: The National CUI Registry.

DoD CUI Program

On March 6, 2020, the Office of the Under Secretary of Defense for Intelligence and Security (OUSD[I&S]) issued DoD Instruction (DoDI) 5200.48 that established the DoD CUI Program and requirements for designating, marking, handling, and decontrolling CUI in accordance with Executive Order 13556 and Title 32 CFR Section 2002.³ DoDI 5200.48 assigned the Under Secretary of Defense for I&S (USD[I&S]) as the senior DoD official responsible for the implementation of CUI policy.

³ DoDI 5200.48, "Controlled Unclassified Information (CUI)," March 6, 2020.

As the senior DoD official responsible for implementing CUI policy, the USD(I&S) must provide reports to NARA on the status of the DoD's CUI Program, including coordinating DoD Component CUI waiver requests, and resolving disputes about implementation and interpretation of the National CUI Registry. In addition, the Director for Defense Intelligence (Counterintelligence, Law Enforcement, and Security), a component within the OUSD(I&S), is responsible for overseeing and managing the DoD CUI Program in accordance with DoDI 5200.48. Specifically, the Director for Defense Intelligence (Counterintelligence, Law Enforcement, and Security) is required to coordinate with the Military Departments and DoD Components to recommend changes to national and DoD CUI policy and provide guidance on DoD Component level implementation policy.

DoDI 5200.48 requires DoD Components to designate a senior agency official responsible for implementing a Component-level CUI Program and delegating oversight of the overall execution of the CUI Program to a program manager. Each DoD Component program manager is required to submit an annual report to the OUSD(I&S) providing the DoD Component's CUI Program implementation status (annual CUI Program implementation report), which requires DoD Components to complete a questionnaire on the effectiveness, compliance, and efficiency of the DoD Component's implementation of their CUI Program.

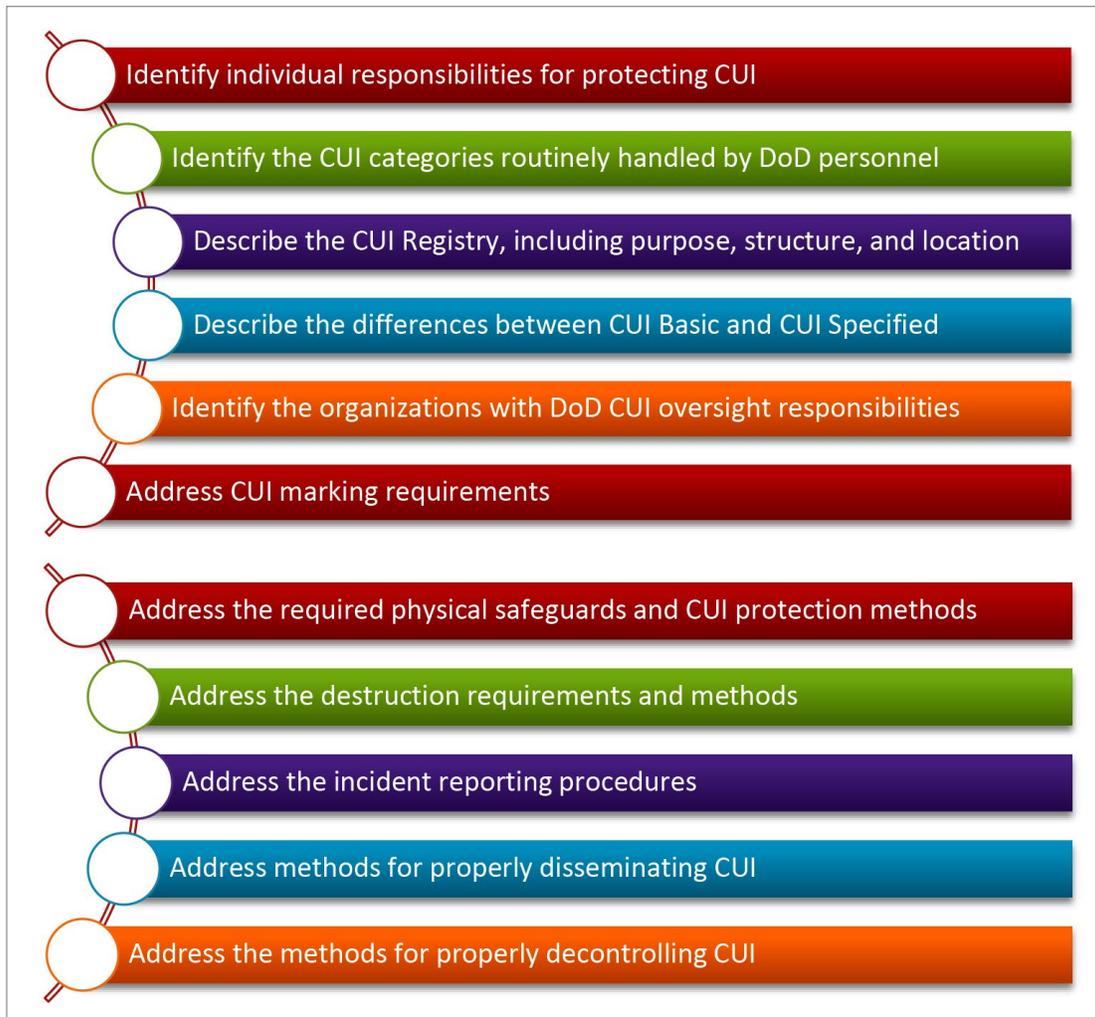
Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.204-7012 requires contractors that maintain CUI to implement security controls specified in the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171.⁴ NIST SP 800-171 requirements include a control related to applying the required markings and distribution limitations on all system media, including digital documents found in workstations, paper documents, and removable media. The DoD Component program office or requiring activity must identify and notify the contractor of DoD CUI at the time of contract award.⁵

⁴ Defense Federal Acquisition Regulation Supplement 252.204-7012, "Safeguarding Covered Defense Information and Cyber Incident Reporting," December 2019. NIST SP 800-171, "Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations," February 2020 (includes updates as of January 28, 2021).

⁵ The requiring activity is the organizational unit that submits a written requirement or statement of need for services required by a contract.

DoDI 5200.48 also requires that all DoD personnel and contractors who handle CUI receive initial and annual refresher CUI training that meets the 11 learning objectives outlined in Figure 1.

Figure 1. DoDI 5200.48 Learning Objectives for CUI Training



Source: The DoD OIG.

In March 2020, the OUSD(I&S) directed the Defense Counterintelligence and Security Agency and the Center for Development of Security Excellence to develop the “DoD Mandatory Controlled Unclassified Information (CUI) Training,” to meet the 11 CUI training requirements. In October 2020, the OUSD(I&S) notified the DoD Components by e-mail that the CUI training was available on the Defense Counterintelligence and Security Agency’s website.

DoD CUI Registry

DoDI 5200.48 also establishes the official DoD CUI Registry, which mirrors the National CUI Registry but provides additional information unique to the DoD. For example, while the National Registry establishes a CUI category for Controlled Technical Information (CTI), the DoD CUI registry provides specific examples of CTI, such as engineering drawings and technical reports.⁶

Although DoD personnel may use NARA's LDCs outlined in Table 1 to further limit access to other categories of CUI, there is a DoD exception for handling CTI. Specifically, DoDI 5230.24 states that instead of an LDC, any CTI originated by or under the control of the DoD will be marked with a distribution statement.⁷ Table 2 lists the distribution statements, provides a description of each, and identifies how the distribution statements align with NARA's LDCs.

Table 2. DoD Distribution Statements for CTI

Distribution Statement	Description	Alignment to LDCs
Distribution Statement A	Approved for public release. Distribution is unlimited.	None – Publicly releasable after review
Distribution Statement B	Distribution authorized to U.S. Government agencies only. Other requests for the document shall be referred to the controlling DoD office.	Federal Employees Only (FED ONLY)
Distribution Statement C	Distribution authorized to U.S. Government agencies and their contractors. Other requests for the document shall be referred to the controlling DoD office.	Federal Employees and Contractors Only (FEDCON)
Distribution Statement D	Distribution authorized to DoD and DoD contractors only. Other requests for this document shall be referred to the controlling DoD office.	Dissemination List – Including a separate list of authorized Government and Contractor personnel.
Distribution Statement E	Distribution authorized to DoD Components only. Other requests shall be referred to the controlling DoD office.	Dissemination List – Including a separate list of authorized Government personnel.
Distribution Statement F	Further distribution only as directed by the controlling DoD office or higher DoD authority.	Dissemination List Controlled (DL ONLY)

Source: The DoD OIG.

⁶ CTI is data with military or space application that are used in the development, design, production, operation, maintenance, and testing of goods or materiel.

⁷ DoDI 5230.24, "Distribution Statements on DoD Technical Information," January 10, 2023.

A distribution statement is used to mark technical information to indicate the extent of its availability for secondary distribution, release, and disclosure without additional approvals or authorizations.

DoDI 5230.24 states that DoD Components may not use the distribution statements as authority to deny information to Congress or any Federal, State, or Local Government agency that requires such information for regulatory or other official Government purposes.

DoD CUI Marking Requirements

Although CUI is not classified information, DoDI 5200.48 states that CUI should be identified in a security classification guide, memorandum, or other documented guidance to ensure that it receives the appropriate markings and protection.⁸ The FY 2023 National Defense Authorization Act requires that, by January 2029, all DoD program (security) classification guides and program protection plans include guidance for the proper marking and use of document portion markings for CUI.⁹ The authorized holder of a document or material is responsible for determining, at the time of creation, whether the information contained in the document or material is CUI. On September 3, 2020, the OUSD(I&S) published “Controlled Unclassified Information Markings,” a training guide that provides details for properly marking documents and e-mails containing CUI, including examples for marking headers and footers, and portion markings.

DoDI 5200.48 does not require DoD Components to update FOUO-marked documents to the required markings. However, any new document created from FOUO-marked information must be marked as CUI, if applicable. DoDI 5200.48 marking requirements include a header and footer, a designation indicator on the cover page of documents that includes the CUI category and applicable LDCs, and portion marking. Table 3 identifies and explains the CUI marking requirements.

⁸ A security classification guide is a written record of the decision or series of decisions identifying the elements of system, plan, program, project, or mission information requiring CUI designations, and establishes the level and duration of CUI designation for each element.

⁹ Public Law 117-263, “James M. Inhofe National Defense Authorization Act for Fiscal Year 2023,” December 23, 2022.

Table 3. CUI Marking Requirements

Marking Requirement	Explanation of Requirement
Header and Footer	CUI markings for unclassified DoD documents must include the acronym “CUI” in the header and footer of the document.
Designation Indicator	<p>The first page or cover of any document containing CUI must include a designation indicator. The designation indicator contains the following information.</p> <ol style="list-style-type: none"> 1. The first line must identify the name of the DoD Component making the determination that the information is CUI. 2. The second line must identify the office within the DoD Component making the determination that the information is CUI. 3. The third line must identify all types of CUI contained in the document. The type refers to CUI categories from the National CUI Registry. 4. The fourth line must contain the distribution statement or an LDC, if applicable. 5. The fifth line must contain the phone number or office mailbox for the originating DoD Component or authorized CUI holder.
Portion Marking	<p>If portion markings are used, then all document subjects and titles, as well as individual sections, parts, paragraphs, or portions of a CUI document, must contain the appropriate portion marking.</p> <p>The unclassified marking “(U)” should be used as a portion marking for information that is not CUI or classified.</p>

Source: The DoD OIG.

Waiver of CUI Requirements for the DoD Intelligence Community

Title 32 CFR section 2002.38 states that in exigent circumstances, the agency head or the CUI Senior Agency Official may waive the CUI marking requirements when an agency shares information with other Executive Branch agencies or non-Federal entities. In May 2021, the OUSD(I&S) approved an exigent circumstance waiver for the Defense Intelligence Agency, National Geospatial-Intelligence Agency, National Reconnaissance Office, and National Security Agency that allows the use of legacy FOUO markings on information provided to the Office of the Director of National Intelligence, other elements of the intelligence community, and the congressional intelligence committees.

The OUSD(I&S) approved the waivers because the Director of National Intelligence had not issued guidance specific to the intelligence community’s CUI Program. Therefore, because the four DoD Components are identified as both a Defense agency and an element of the intelligence community, implementation of the DoD CUI program would have resulted in the inconsistent marking of similar

information across the Intelligence Community. Therefore, we did not assess the use of CUI at the Defense Intelligence Agency, National Geospatial-Intelligence Agency, National Reconnaissance Office, and National Security Agency.

DoD Components, Contracting Offices, and Contractors Assessed

We assessed the implementation of the CUI Program at 10 DoD Components and 3 DoD contractors. Table 4 lists the DoD Components and sub-Components, as applicable. Table 5 lists the DoD contractors.

Table 4. DoD Components Assessed

DoD Component	DoD Sub-Component
U.S. Army	Combined Arms Support Command (CASCOM)
U.S. Marine Corps	Marine Corps Systems Command, Portfolio Manager Logistics Combat Element Systems (PfM LCES)
U.S. Navy	Carrier Strike Group One (CSG-1)
U.S. Air Force	363d Intelligence, Surveillance, and Reconnaissance Wing (ISRW)
U.S. Space Force	11th Delta Operations Squadron (11 DOS)
Director, Operational Test and Evaluation (DOT&E)	n/a
U.S. Space Command (USSPACECOM)	n/a
U.S. Special Operations Command (USSOCOM) Headquarters (HQ)	n/a
Defense Threat Reduction Agency (DTRA)	n/a
Office of Local Defense Community Cooperation (OLDCC)	n/a

n/a = not applicable

Source: The DoD OIG.

Table 5. DoD Component Contracting Offices and Contractors Assessed

DoD Component Contracting Offices	Contractor
Army Contracting Command – Orlando*	Contractor A
Air Force Research Laboratory	Contractor B
Missile Defense Agency (MDA)	Contractor C

* The Army Program Executive Office Simulation, Training, and Instrumentation is a Requiring Activity for Contractor A. A Requiring Activity is a DoD organization that is responsible for developing the program's objective and overseeing the technical requirements of the contract.

Source: The DoD OIG.

National Security Council Review of the Federal CUI Program and National Defense Authorization Act for FY 2023

In a June 2022 memorandum, the White House launched a National Security Council initiative to establish an Information Management and Classification Interagency Policy Committee to reassess the Federal CUI Program.¹⁰ Although the June 2022 memorandum stated that Components should consider whether to place any efforts to overhaul information management on hold, NARA's Information Security and Oversight Office clarified in September 2022 that agencies should continue to safeguard and handle CUI in accordance with the applicable Federal laws, regulations, and government-wide policy authorities.

Management Advisory Regarding the Use of FOUO Markings and the Ineffective Implementation of the CUI Program

On September 23, 2021, the DoD OIG issued a management advisory on DoD's continued use of FOUO markings and the ineffective implementation of the DoD CUI Program.¹¹ The DoD OIG recommended that the USD(I&S) develop and implement an action plan, with milestones, to oversee CUI training within the DoD and the effective implementation of the DoD CUI Program by all DoD Components. As of May 2023, the recommendation was unresolved because USD(I&S) had not provided comments in response to the advisory. Therefore, we highlighted the recommendation in this report and requested that USD(I&S) provide a response to the recommendation as part of their management comments.

On May 11, 2023, the Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), provided management comments on this report, which included a comment on the recommendation in the 2021 management advisory. The Acting Director stated that corrective action taken on Recommendations A.1.a – A.1.h of this report would resolve the recommendation from the 2021 management advisory. We agree with the Acting Director and consider their comments responsive to the 2021 recommendation because actions taken to resolve Recommendations A.1.b and A.1.c will provide the oversight of CUI training and actions taken to resolve Recommendations A.1.a and A.1.d – A.1.h will promote the effective implementation of the CUI program. Therefore, we consider the recommendation from the 2021 management advisory closed.

¹⁰ National Security Council Memorandum, "Initiating a Process to Review Information Management and Classification Policies," June 2, 2022.

¹¹ Report No DODIG-2021-135, "Management Advisory Regarding the Continued Use of Unauthorized 'For Official Use Only' Markings and the Ineffective Implementation of the Controlled Unclassified Information Program," September 23, 2021.

Review of Internal Controls

DoDI 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.¹² We identified internal control weaknesses related to DoD Component and contractor implementation of the DoD CUI Program. Specifically, personnel within CASCOM, PFM LCES, CSG-1, the 363d ISRW, 11 DOS, DOT&E, USSOCOM HQ, USSPACECOM, DTRA, OLDCC, Contractor A, Contractor B, and Contractor C did not include the required markings in documents or e-mails containing CUI in accordance with DoDI 5200.48. In addition, CASCOM, PFM LCES, CSG-1, the 363d ISRW, 11 DOS, USSOCOM HQ, USSPACECOM, DTRA, and Contractor C did not complete the required CUI training. We will provide a copy of the final report to the senior official responsible for internal controls in the U.S. Army, U.S. Marine Corps, U.S. Navy, U.S. Air Force, U.S. Space Force, OUSD(I&S), DOT&E, Defense Pricing and Contracting, USSPACECOM, USSOCOM HQ, DTRA, MDA, and OLDCC.

¹² DoDI 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013 (Incorporating Change 1, June 30, 2020).

Finding A

DoD Developed CUI Guidance but Did Not Effectively Oversee Its Implementation

The OUSD(I&S) developed DoDI 5200.48, which established the DoD CUI Program and the requirements for designating, marking, handling, and decontrolling CUI and CUI training. However, the DoD Components did not effectively oversee the implementation of the Instruction to ensure that CUI documents and e-mails contained the required markings and that all personnel completed the appropriate CUI training. We identified the following deficiencies at the 10 DoD Components we assessed.

- Personnel at 9 of the 10 DoD Components did not consistently include CUI headers and footers, designation indicators, CUI portion markings, or some combination thereof, when documents included CUI. We assessed a nonstatistical sample of 300 of 5,527 documents of which:
 - 139 (46 percent) did not include CUI headers and footers;
 - 145 (48 percent) did not include a designation indicator; and
 - 26 (9 percent) did not include proper portion markings.¹³
- Personnel at 7 of the 10 DoD Components did not consistently include CUI headers and footers, designation indicators, CUI portion markings, or some combination thereof, when e-mails included CUI. We assessed 31 CUI e-mails from a nonstatistical sample of 370 of 12,338 personnel of which:
 - 27 (87 percent) did not include CUI footers and headers;
 - 13 (42 percent) did not include a designation indicator; and
 - 1 (3 percent) did not include proper portion markings.
- Personnel at 8 of the 10 Components did not consistently complete the required CUI training. We assessed the training records of a nonstatistical sample of 372 of 16,647 personnel, of which 84 personnel (23 percent) did not have a current CUI training certificate.¹⁴

¹³ At the time of our site visit, USSPACECOM did not have a DoD CUI Program. Therefore, USSPACECOM did not require its personnel to mark documents that contained CUI. See Appendix B for details on the sampling methodology.

¹⁴ We considered a CUI training certificate as current if it was completed within a year before our site visit. We conducted site visits between November 2022 and January 2023.

These conditions occurred because the DoD Components did not have mechanisms in place to ensure that CUI documents and e-mails were appropriately marked and to track that all personnel completed CUI training that met all 11 learning objectives. In addition, the OUSD(I&S) did not require the DoD Components to test, as part of the Components' annual reporting process, a sample of CUI documents to verify whether the documents contained the required markings although the OUSD(I&S) requires DoD Components to do so for classified information.

The DoD's transition from the use of markings, such as FOUO, to the use of CUI is a significant change that requires continued emphasis and oversight from DoD leadership to ensure that DoD personnel properly and consistently mark documents and e-mails that contain CUI and attend CUI training. Without that emphasis and oversight, the DoD will not meet the intent of Executive Order 13556 for standardizing the way the Executive Branch handles CUI. Furthermore, the continued use of improper or inconsistent CUI markings can increase the risk of the unauthorized disclosure of CUI or unnecessarily restrict the dissemination of information and create obstacles to authorized information sharing.

The DoD's transition from the use of markings, such as FOUO, to the use of CUI is a significant change that requires continued emphasis and oversight from DoD leadership to ensure that DoD personnel properly and consistently mark documents and e-mails that contain CUI and attend CUI training.

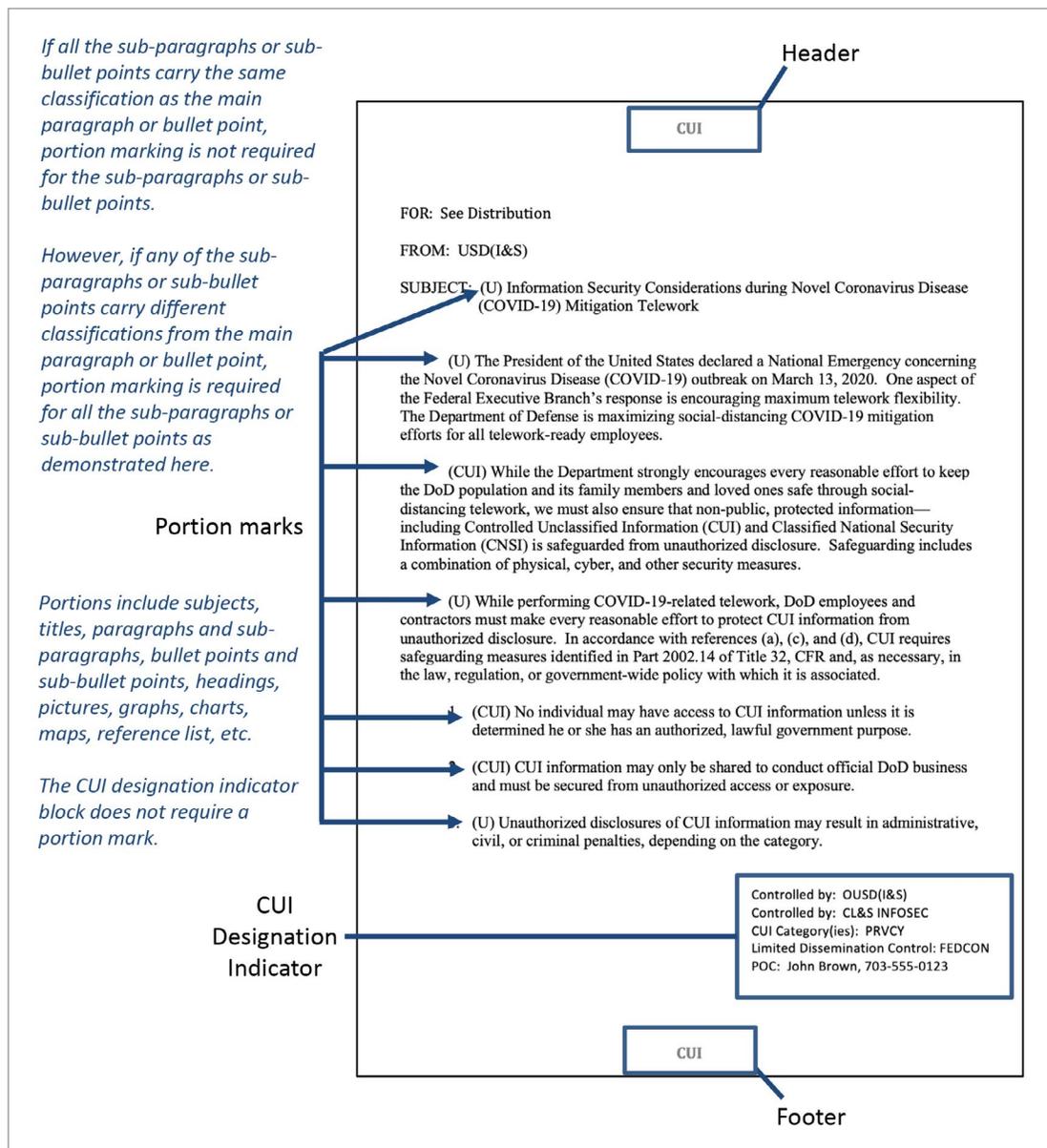
DoD Component Personnel Did Not Consistently Apply the Required Markings as Required by DoD Guidance

Personnel at the 10 DoD Components we assessed did not consistently include the required CUI headers and footers, designation indicators, portion markings, or some combination thereof, when documents and e-mails included CUI. To verify whether the documents contained the required markings, we reviewed a nonstatistical sample of documents and e-mails containing CUI that were created after the DoD implemented its CUI Program and verified whether the documents and e-mails included CUI headers and footers, designation indicators, and portion markings.

DoD Component Personnel Did Not Consistently Apply the Required Markings to Documents Containing CUI

Personnel at 9 of the 10 DoD Components we assessed did not consistently apply the required markings to documents containing CUI. DoDI 5200.48 requires DoD Components and contactors to include “CUI” in the header and footer of all documents containing CUI and a designation indicator on the first page or cover of any document or material containing CUI, and to portion mark all individual paragraphs, bullets, and tables with “CUI” if portion markings are used. The DoD CUI Markings Guide provides the example shown in Figure 2 as an aid for applying the required markings.

Figure 2. DoD CUI Markings Guide Example of the Required Markings for Documents



Source: DoD CUI Markings guide, updated March 17, 2022.

To determine whether DoD Component personnel marked documents containing CUI in accordance with DoDI 5200.48, we reviewed a nonstatistical sample of 300 of 5,527 documents provided by the DoD Components to verify whether the documents contained the required headers and footers, designation indicator, and portion markings. Of the 300 documents we assessed:

- 139 (46 percent) did not include CUI headers and footers;
- 145 (48 percent percent) did not include a designation indicator; and
- 26 (9 percent) did not include proper portion markings.

Table 6 lists, by DoD Component, the number of CUI documents that did not contain the required markings.

Table 6. Number of CUI Documents That Did Not Contain the Required Markings

DoD Component	Universe of Documents	Sample Size	Documents Without a CUI Header and Footer	Documents Without a Designation Indicator	Documents Without Proper Portion Markings**
CASCOM	1,120	44	44	44	n/a
PfM LCES	440	43	18	18	4
CSG-1	190	36	32	32	n/a
363d ISRW	3,139	45	33	34	0
11 DOS	27	17	3	6	1
USSOCOM HQ	45	24	4	3	15
DOT&E	161	36	1	2	4
DTRA	393	43	1	2	2
OLDCC	12	12	3	4	n/a
Totals	5,527	300	139	145	26

* USSPACECOM is excluded from the table because, at the time of the audit, it did not require personnel to use the required markings.

** "n/a" indicates that the personnel did not use any portion markings in the document. "0" indicates that personnel used portion markings throughout the document and we did not identify issues with the application of the portion markings.

Source: The DoD OIG.

DoD Component officials provided various reasons for the inconsistent markings. For example, officials stated that personnel forgot to properly mark the documents, were not aware that pre-decisional documents needed to be marked CUI, or defaulted to using FOUO legacy markings. CASCOM, CSG-1, and 363d ISRW officials stated that the inconsistent application of the required markings occurred, in part, because their Components had not updated their internal databases or systems, which were designed to automatically populate documents with legacy

FOUO markings. The CASCOM Security Manager stated that they used the Central Army Registry to store documents that required personnel to select a distribution statement from a drop down menu when the document was loaded to the registry. However, the registry had not been updated to give personnel the option to mark documents CUI and instead only had an option to mark documents as Unclassified or FOUO.

After our site visit in December 2022, CASCOM officials submitted a request to the Army Training and Doctrine Command to update the Central Army Registry to include the CUI markings; however, as of May 2023, the request was still pending.

The CSG-1 Security Manager stated that CSG-1 personnel used Department of the Navy-created forms and templates to develop documents that contained personally identifiable information (a form of CUI), and that the forms had the legacy FOUO markings. In addition, the 363d ISRW Commander stated that in certain instances, personnel were unable to correct standard Air Force templates that had the legacy FOUO headers and footers.

With respect to USSPACECOM, the Command did not have a CUI Program in place during our site visit, and therefore we did not request USSPACECOM documents for review.¹⁵ However, we verified that in April 2023, the USSPACECOM Chief of Staff implemented a CUI Program that requires all personnel to mark information as CUI in accordance with DoDI 5200.48 and complete CUI training. Therefore, we did not include a recommendation to USSPACECOM to implement a CUI Program in this report.

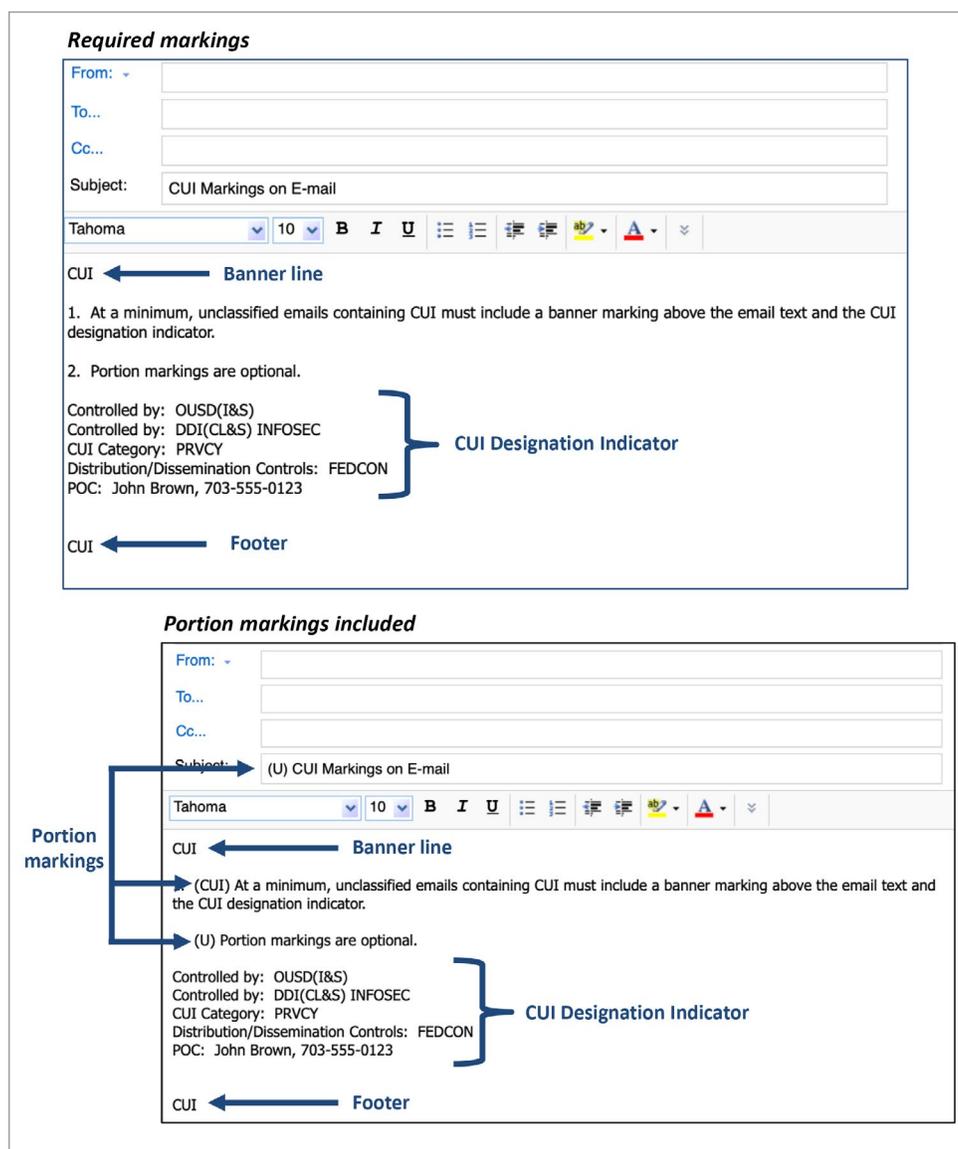
DoD Component Personnel Did Not Consistently Apply the Required Markings to E-mails Containing CUI

Personnel at 7 of the 10 DoD Components we assessed did not consistently apply the required markings to e-mails containing CUI.¹⁶ DoDI 5200.48 requires DoD Components and contactors to include “CUI” on the top and bottom of e-mails containing CUI and a designation indicator. The Instruction also requires that paragraphs, bullets, and tables be portion marked with “CUI” when using portion markings are used. The DoD CUI Markings Guide provides the following examples (Figure 3) of how to apply the required markings for e-mails that contain CUI.

¹⁵ We selected a sample of USSPACECOM e-mails and training certificates to review as reflected in the next sections of this report. Although USSPACECOM did not have a CUI Program in place at the time of our site visit, some personnel took the initiative to mark the CUI included in e-mails and had taken the CUI training in a previous assignment or while at USSPACECOM.

¹⁶ We did not identify discrepancies with CUI markings in e-mails containing CUI at CASCOM, 11 DOS, and OLDCC.

Figure 3. DoD CUI Markings Guide Example of the Required Markings for E-Mails



Source: DoD CUI Markings guide, updated March 17, 2022.

To determine whether DoD Component personnel marked e-mails containing CUI in accordance with DoDI 5200.48, we selected a nonstatistical sample of 370 of 12,338 personnel from the DoD Components we assessed. For each of the 370 personnel sampled, we assigned a random date between April 1, 2020, and February 3, 2023. We then requested that the Defense Information Systems Agency

Joint Service Provider or the DoD Component e-mail administrators search the e-mails the 370 personnel sent on their assigned random date for specific keywords and provide us with all e-mails containing the keywords.¹⁷ The keywords included:

- CUI;
- For Official Use Only;
- FOUO;
- Controlled Technical Information;
- CTI;
- Limited Dissemination Control;
- LDC; or
- program-specific terms.

The search resulted in 31 e-mails to assess. Of the 31 CUI e-mails:

- 27 (87 percent) did not include CUI footers and headers;
- 13 (42 percent) did not include a designation indicator; and
- 1 (3 percent) did not include proper portion markings.

Table 7 lists, by DoD Component, the number of CUI e-mails that did not contain the required markings. For CASCOM, 11 DOS, and OLDCC, the e-mails selected in our sample provided no indication that CUI was included in the e-mails; therefore, we did not review e-mails from those DoD Components and the number of CUI e-mails reviewed column indicates “0.”

Table 7. Number of CUI E-mails Not Marked in Accordance with DoD Requirements

DoD Component	Universe of Personnel	Sample Size – Personnel	Number of CUI E-mails Reviewed	E-mails Without a CUI Header and Footer	E-mails Without a Designation Indicator	E-mails Without Proper Portion Markings
CASCOM	568	44	0	0	0	0
PfM LCES	324	42	1	1	1	0
CSG-1	70	30	4	4	4	0
363d ISRW	546	44	4	0	0	1
11 DOS	27	17	0	0	0	0
USSOCOM HQ*	9,597	45	7	7	1	0
USSPACECOM	612	44	6	6	1	0

¹⁷ The DoD OIG is a limited customer of the Defense Information Systems Agency Joint Service Provider. While the Joint Service Provider provides services to information systems operated and managed by DoD Components, it only provides the DoD OIG with network transport services for its Non-Classified and Secure Internet Protocol Router Networks connections.

Table 7. Number of CUI E-mails Not Marked in Accordance with DoD Requirements (cont'd)

DoD Component	Universe of Personnel	Sample Size – Personnel	Number of CUI E-mails Reviewed	E-mails Without a CUI Header and Footer	E-mails Without a Designation Indicator	E-mails Without Proper Portion Markings
DOT&E	88	32	6	6	6	0
DTRA	443	43	3	3	0	0
OLDCC	63	29	0	0	0	0
Total	12,338	370	31	27	13	1

* At the time of the audit, USSOCOM was unable to provide a list of personnel assigned to USSOCOM HQ. However, we were able to confirm that the 45 individuals selected in our sample, were assigned to USSOCOM HQ.

Source: The DoD OIG.

DoD Component officials provided reasons similar to those provided for the inconsistently marked documents as reasons why the e-mails containing CUI were inconsistently marked. For example, the 363d ISRW Commander stated that the Air Force previously relied on a marking tool built into its e-mail system to assist personnel in marking CUI e-mails; however, the tool was decommissioned during the DoD's transition to Office 365.

DoD Components Did Not Have Mechanisms in Place to Ensure That Personnel Consistently Applied the Required Markings

As stated in the previous sections of this report, some of the DoD Components developed templates that included FOUO markings and automated tools to allow personnel to populate documents and e-mails with FOUO or the required markings. Such capabilities employed across the DoD would likely improve compliance with CUI marking guidance as they would prompt personnel to consider whether CUI markings were required and populate documents and e-mails automatically if drop down menus were engaged. Although the DoD Components use different forms and systems, a DoD-wide solution applied at the DoD Component level, if feasible, could result in a more consistent CUI marking process across the DoD.

DoD Component Personnel Did Not Consistently Complete CUI Training

Personnel at 8 of the 10 DoD Components we assessed did not consistently complete the required CUI training.¹⁸ DoDI 5200.48 requires that DoD personnel complete initial and annual refresher CUI training, and maintain documentation of completed training for audit purposes. To determine whether DoD Component personnel completed CUI training in accordance with DoDI 5200.48, we selected a nonstatistical sample of 372 of 16,647 personnel from the DoD Components assessed and requested their most recent CUI training certificates. Table 8 lists, by DoD Component, the number of personnel who did not have a current CUI training certificate.

Table 8. Number of Personnel Without a Current CUI Training Certificate

DoD Component	Universe of Personnel	Sample Size	Number of Personnel Without a Current CUI Training Certificate
CASCOM	568	44	2
PfM LCES	324	42	10
CSSG-1	70	30	2
363d ISRW	546	44	4
11 DOS	27	17	3
USSOCOM HQ	9,597	45	11
USSPACECOM	612	44	42
DTRA	4,752	45	10
DOT&E	88	32	0
OLDCC	63	29	0
Total	16,647	372	84

Source: The DoD OIG.

Only 3 of the 10 DoD Components (DTRA, DOT&E, and OLDCC) that we assessed used learning management systems to track and monitor whether personnel completed CUI training. DoDI 5200.48 requires that the DoD Components include training statistics in their annual CUI Program implementation report that is submitted to the OUSD(I&S). Without a tracking process, the Components have limited assurance that the statistics in that report are accurate. In addition, the

¹⁸ All CUI training certificates reviewed for DOT&E and OLDCC personnel were current.

Components do not have a method to identify personnel that need to complete the training. Completing CUI training is imperative to ensuring that all personnel have the basic knowledge to understand and properly apply CUI guidance.

We also identified that some of the DoD Components directed personnel to take training that did not include all of the 11 CUI learning objectives. For example, 363d ISRW and DTRA personnel completed “Unauthorized Disclosure of Classified Information and Controlled Unclassified Information.” While the training discusses how to protect CUI from unauthorized disclosure, according to the OUSD(I&S) Information Security Policy Chief, the training was not sufficient because it covered only 3 of the 11 CUI learning objectives. The Information Security Policy Chief stated that the OUSD(I&S) intended that all DoD personnel take the CUI training developed by the Center for Development of Security Excellence, “DoD Mandatory Controlled Unclassified Information (CUI) Training,” as initial CUI training because the training included all 11 CUI learning objectives.

In October 2020, the OUSD(I&S) notified the DoD Components, by e-mail, that the Center for Development of Security Excellence training course was available on the DoD CUI website. However, the e-mail did not explicitly state that the OUSD(I&S) intended for all DoD personnel to take the training as initial CUI training, and therefore not all DoD Components required their personnel to take the training. The Information Security Policy Chief also stated that the DoD Components could use the training course to fulfill both the initial and annual refresher CUI training, which would ensure that personnel take training that meets all 11 CUI learning objectives.

DoD Does Not Require DoD Components to Test a Sample of CUI Documents as Part of the Annual CUI Program Implementation Report

The OUSD(I&S) did not require the DoD Components to test, as part of the annual CUI program implementation reporting process, a sample of CUI documents to determine whether personnel were including the required markings. The annual CUI program implementation report is the second part of a larger report that DoD Components submit to the OUSD(I&S). The first part of the larger report is specific to classified documents. Each part contains a questionnaire that focuses on compliance with document marking and training requirements.

In part one of the report, DoD Components are required to answer a question concerning the number and types of discrepancies identified during a review of the markings on classified documents; however, the Components are not

required to do the same for documents marked CUI. Figure 4 shows the question concerning classified documents and the response provided to the OUSD(I&S) by a DoD Component on its FY 2022 questionnaire.

Figure 4. Question Concerning Classified Document Markings

Q22	If any discrepancies were found in originally classified products reviewed for your self-inspection program, what were they and what was the frequency of each discrepancy?	(Insert number of times discrepancy was noted)
	Incorrect banner markings; banner markings not on all pages	2
	Missing or incorrect portion markings	2
	Missing classification authority block	1
	Improper use of NOFORN	2
	Improper application of SCI marking	1
	Documents classified at a higher level than comparable document	3
	Document contains information not meeting the standards for classification	1

Source: DoD 2022 Classified National Security Information (CNSI) and Controlled Unclassified Information (CUI) Reporting, December 5, 2022.

The results of our CUI document and e-mail review demonstrate the need for a question, similar to the question required for classified documents, to verify that DoD personnel are applying the required markings. Without that information, the OUSD(I&S) cannot provide NARA with a realistic report on the status of the DoD's CUI Program. In addition to enabling the OUSD(I&S) to provide NARA a more realistic report, it would enable the OUSD(I&S) and the DoD Components to identify systemic issues concerning CUI marking discrepancies that the OUSD(I&S) and the DoD Components could use to develop guidance or controls to correct the identified discrepancies.

Implementation of DoD's CUI Program Requires Continued Emphasis and Oversight

The DoD's transition from the use of markings, such as FOUO to the use of CUI, is a significant change. Properly marking CUI documents and e-mails requires DoD personnel to take additional steps to gather information that was not required under the legacy marking protocols. For example, DoD personnel must identify the information needed to complete the designation indicator, such as the controlled by information, the CUI category, and limitation controls, and ensure the designation indicator is properly located on the CUI document. Those additional steps take time and attention, and require training to be implemented properly. Continued emphasis and oversight from DoD leadership is necessary to ensure that the DoD meets the intent of Executive Order 13556 for standardizing the way the Executive Branch handles CUI.

The continued use of improper or inconsistent CUI markings can increase the risk of the unauthorized disclosure of CUI or unnecessarily restrict the dissemination of information and create obstacles to authorized information sharing. Failure to properly mark information as CUI, when required, could result in significant degradation to mission capability, significant damage to organizational assets, or financial loss. According to DCSA, CUI is the path of least resistance for adversaries and the loss of aggregated CUI is the one of the most significant risks to national security, directly affecting lethality of our warfighters.¹⁹

Unnecessarily restricting the dissemination of DoD information by marking it CUI when the information does not require CUI marking or using LDCs inappropriately can limit the transparency of information that should be available for a wider audience. In the Senate Armed Services Committee's request for this audit, the Committee expressed concern that DoD Components were using LDCs without

Unnecessarily restricting the dissemination of DoD information by marking it CUI when the information does not require CUI marking or using LDCs inappropriately can limit the transparency of information that should be available for a wider audience.

having a legitimate rationale, thereby limiting transparency. While the need to apply certain LDCs is evident, such as the use of [Attorney-Client/AC] to restrict the release of CUI that is protected by attorney-client privilege, the need to apply other LDCs is not. For example, the NARA and DoD CUI Registries state that the FED ONLY and FEDCON LDCs authorize the sharing of CUI only with employees of the Executive Branch, which by definition excludes Congress. That exclusion contradicts a statement made to us by a NARA official, who stated that LDCs were not intended to prevent Congress from receiving documents with the required markings or impede Congressional oversight. The exclusion also contradicts DoDI 5230.24, which states that DoD Components may not use distribution statements (which aligns with the NARA LDCs) as authority to deny information to Congress or any Federal, State, or Local Government agency that requires such information for regulatory or other official Government purposes.

¹⁹ DCSA CUI website at <https://www.dcsa.mil/mc/isd/cui/>.

Management Comments on the Finding and Our Response

Although not required to comment, the Department of the Army Security Division Chief from the Office of the Deputy Chief of Staff, G-2, provided the following comments on the Finding. For the full text of all management comments received, see the Management Comments section of the report.

Department of the Army, Security Division Chief Comments

The Department of the Army Security Division Chief from the Office of the Deputy Chief of Staff, G-2, stated that they agreed with the findings and recommendations in the report but wanted to offer additional information on the history of the CUI implementation. Specifically, the Division Chief stated that, while the OUSD(I&S) established the CUI Program by issuing DoDI 5200.48, the Instruction contained very little information to allow users to properly identify and mark information as CUI. The Division Chief compared the complexity of the CUI program to the requirements for identifying and marking classified information, which the OUSD(I&S) issued a directive, an instruction, and three manuals containing reference information. The Division Chief stated that supplemental guidance, such as a manual, with detailed procedures is needed for identifying and marking information as CUI.

Our Response

Between the DoDI 5200.48 and the CUI Markings Guide, personnel have access to detailed instructions and examples of how to apply CUI markings, such as headers and footers, portion markings, and designation indicators, in documents and e-mails that contain CUI. With the exception of the use of the FED ONLY and FEDCON LDCs, we found the guidance sufficient to determine the required markings. To address the confusion surrounding LDCs, we have recommendations in this report for the USD(I&S) to coordinate with NARA on the intent and use of those LDCs and to update DoD guidance based on that coordination (Recommendation A.1.e and Recommendation A.1.f).

Recommendations, Management Comments, and Our Response

Redirected Recommendation

As a result of management comments, we redirected Recommendation A.4 to the Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, which has the authority to implement the recommendation.

Recommendation A.1

We recommend that the Under Secretary of Defense for Intelligence and Security:

- a. **In coordination with the DoD Chief Information Officer and DoD Component Heads, develop and implement a DoD-wide solution for automatically populating documents and e-mails with the required markings based on a set of selection criteria.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that automated marking tools for classified national security information already assist DoD personnel in correctly marking e-mails. They also stated that updating a commercially-available or government-developed tool will assist DoD personnel with CUI markings on the unclassified network, and would result in standard and repeatable markings that reflect DoD policy and subsequently developed training materials.

Our Response

Comments from the Acting Director partially addressed the recommendation; therefore, the recommendation is unresolved. Although the Acting Director acknowledged that marking tools assist DoD personnel in properly marking classified information, they did not state the action they would take to develop and implement a DoD-wide solution for marking CUI information. Therefore, we request that the Acting Director provide additional comments to the final report within 30 days, clarifying their plan to develop and implement a DoD-wide solution for automatically populating documents and e-mails with the required CUI markings.

- b. **Revise DoD Instruction 5200.48 to require DoD Components to implement a process to track the completion of controlled unclassified information training, such as the use of a learning management system, and use that process to enforce the requirement that personnel complete the controlled unclassified information training.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will develop a process for tracking and enforcing CUI training completion through the Defense Security Enterprise governance process and implement the process through policy revisions to DoDI 5200.48.

Our Response

Comments from the Acting Director addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides a copy of the revised DoDI 5200.48 and we verify that it requires the DoD Components to track and enforce the completion of CUI training.

- c. Reissue notification to all DoD Component Heads that the Center for Development of Security Excellence controlled unclassified information training, “DoD Mandatory Controlled Unclassified Information (CUI) Training,” is available on the DoD controlled unclassified information website, and clarify that the training should be used for initial controlled unclassified information training and can be also used as annual refresher training.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will notify DoD Component Heads that the training offered by the Center for Development of Security Excellence is the official, initial CUI training course, and that the training will also meet the annual refresher training requirement.

Our Response

Comments from the Acting Director addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides documentation showing that the OUSD(I&S) notified DoD Component Heads of the official, initial, and refresher CUI training.

- d. Add a question to the controlled unclassified information questionnaire that requires DoD Components to select a sample of controlled unclassified information documents, test whether personnel are including the required markings, and report the discrepancies identified during the test.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will add a requirement for DoD Components to select a sample of CUI documents and review those documents against DoD marking requirements in future self-inspection reports.

Our Response

Comments from the Acting Director addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides documentation showing that the OUSD(I&S) added the requirement to sample and review CUI documents as part of the DoD Component self-inspection reports.

- e. **Coordinate with the National Archives and Records Administration to clarify the intent of the “Federal employees only” and “Federal employees and contractors only” limited dissemination controls, and when they should apply.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S) agreed, stating that the OUSD(I&S) will request the CUI Executive Agent to clarify that FED ONLY and FEDCON dissemination controls do not prevent sharing between the Legislative, Executive, and Judicial Branches of the U.S. Government.

Our Response

Comments from the Acting Director partially addressed the recommendation; therefore, the recommendation is unresolved. In addition to clarifying the intent of the LDCs with respect to the Legislative, Executive, and Judicial Branches, the Acting Director should also coordinate with the NARA CUI Executive Agent to clarify when the FED ONLY and FEDCON LDCs should be applied. Therefore, we request that the Acting Director provide comments to the final report within 30 days, agreeing to the additional coordination.

Unsolicited Comments

Although not required to comment, the DOT&E Principal Deputy Director stated that the recommendation should be expanded to remove the restriction limiting dissemination to the Executive Branch only. The Principal Deputy Director acknowledged that the intent of FED ONLY and FEDCON was not to deny information to Congress or other Government agencies, and that this restriction has led to confusion within the DoD.

Our Response

We agree that the use and application of the FEDCON and FED ONLY LDCs is confusing and should not restrict dissemination to only the Executive Branch, especially if other branches of government have a lawful purpose for receiving and reviewing specific CUI. However, revisions to the use of the FEDCON and FED ONLY LDCs are the responsibility of the NARA Executive Agent. The USD(I&S) is responsible for submitting changes to CUI categories, on behalf of DoD Components, to the NARA Executive Agent. Therefore, we recommended that the USD(I&S) coordinate with NARA to clarify the intent of the FEDCON and FED ONLY LDCs and to revise DoD guidance in accordance with that clarification (Recommendation A.1.e and A.1.f).

- f. Revise DoD guidance to reflect any changes made to the use of the “Federal employees only” and “Federal employees and contractors only” limited dissemination controls.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will develop guidance on how to apply the FED ONLY and FEDCON LDCs.

Our Response

Comments from the Acting Director addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides documentation showing that the DoD issued revised guidance on applying the FED ONLY and FEDCON LDCs.

- g. Develop and implement a process to identify systemic discrepancies with the implementation of controlled unclassified information programs across the DoD Components and provide guidance to the DoD Components to address those systemic issues.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will develop a process to identify systemic discrepancies through the Defense Security Enterprise governance process and implement the process through revisions to DoDI 5200.48.

Our Response

Comments from the Acting Director addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides a copy of the revised DoDI 5200.48 and we verify that it includes a process to identify and address systemic discrepancies with the implementation of the CUI Program across the DoD Components.

Unsolicited Comments

Although not required to comment, the DOT&E Principal Deputy Director, agreed with the recommendation, stating that DOT&E has found the application of CUI to be inconsistent in security classification guides throughout the DoD. The Principal Deputy Director is concerned that if the systemic discrepancies are not addressed in advance of the implementation of Recommendation A.1.a, personnel may continue to mark unclassified documents and e-mails as CUI that do not need to be marked.

Our Response

We agree that the USD(I&S) should address the systemic discrepancies before the implementation of a DoD-wide solution for automatically populating documents and e-mails with the required CUI markings. We acknowledge the DOT&E Principal Deputy Director's concern that if the systemic discrepancies are not addressed in advance of the implementation of Recommendation A.1.a that personnel may mark unclassified documents and e-mails that do not rise to that level per applicable laws, regulations, and government-wide policies. The recommendations in this report for training and improved oversight should help ensure that DoD personnel properly mark CUI documents (Recommendations A.1.b, A.1.c, and A.1.d).

- h. Require DoD Components that identify discrepancies within their controlled unclassified information program to develop and implement corrective action plans, and provide updates on the actions taken to resolve the discrepancies in future years questionnaires.**

Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security Comments

The Acting Director for Defense Intelligence, Counterintelligence, Law Enforcement, and Security, responding for the USD(I&S), agreed, stating that the OUSD(I&S) will develop a corrective action plan and resolution process through the Defense Security Enterprise governance process and implement the process through revisions to DoDI 5200.48.

Our Response

Comments from the Acting Director addressed the specifics of the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Director provides documentation showing that the OUSD(I&S) developed a corrective action plan and resolution process, and revised DoDI 5200.48 to implement the process across the DoD.

Recommendation A.2

We recommend that the Commanding General of the Army Training and Doctrine Command update the Training Development Capability to include the option to mark documents as controlled unclassified information and prompt personnel to add the designation indicator and portion markings, if applicable.

Army Training and Doctrine Command Acting Deputy Chief of Staff Comments

The Acting Deputy Chief of Staff, G-2, responding for the Commanding General of the Army Training and Doctrine Command agreed, stating that the Training Development Capability is the database used to manage learning products. The Acting Deputy Chief of Staff stated that, on November 9, 2020, the Army Training and Doctrine Command Information Security Program Manager tasked their personnel to implement the requirements of DoDI 5200.48, and mark all new products and systems with the appropriate CUI markings. The Acting Deputy Chief of Staff acknowledged that, prior to the audit, the Training and Doctrine Command was aware that the Training Development Capability needed an update to include the option to mark documents as CUI and, on January 22, 2021, the Information Security Program Manager submitted a service ticket to add CUI identification capabilities to its products. The Acting Deputy Chief of Staff stated that lack of funding and a from receiving the update. They further stated that the Information Security Program Manager confirmed that the service ticket was upgraded in priority, and estimates that the CUI marking capability should be complete by May 31, 2025.

Our Response

Comments from the Acting Deputy Chief of Staff, G-2, addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Acting Deputy Chief of Staff provides documentation showing that the Training and Doctrine Command updated the Training Development Capability to include the option to mark documents as CUI and prompt personnel to add the designation indicator and portion markings.

Recommendation A.3

We recommend that the Chief of Naval Operations update standard forms and templates to include controlled unclassified information headers and footers, and prompt personnel to add the designation indicator and portion markings.

Management Comments Required

The Chief of Naval Operations did not respond to the recommendation; therefore, the recommendation is unresolved. We request that the Chief of Naval Operations provide comments to the final report within 30 days.

Recommendation A.4

We recommend that the Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force, update standard forms and templates to include controlled unclassified information headers and footers, and prompt personnel to add the designation indicator and portion markings.

Deputy Administrative Assistant, Office of the Administrative Assistant to the Secretary of the Air Force Comments

The Deputy Administrative Assistant, Office of the Administrative Assistant to the Secretary of the Air Force agreed, stating that all applicable Air Force forms must be updated in accordance with the new CUI marking requirements. In immediate response to this recommendation, the Deputy Administrative Assistant stated that the Air Force generated a listing of forms and will make the corrections within 1 calendar year of the date the final DoD OIG report is published.

Our Response

Comments from the Deputy Administrative Assistant addressed the recommendation; therefore, the recommendation is resolved but open. We will close the recommendation once the Deputy Administrative Assistant provides documentation showing that the Air Force forms were updated to include CUI markings in accordance with DoDI 5200.48.

Finding B

Contracting Officials Did Not Consistently Ensure That DoD Contractors Completed or Tracked CUI Training

As stated in Finding A of this report, the OUSD(I&S) developed DoDI 5200.48, which established the DoD CUI Program and the requirements for designating, marking, handling, and decontrolling CUI and CUI training. The contractors we assessed generally applied the required markings to documents and e-mails as required by DoD guidance. However, DoD contracting officials did not ensure that Contractor B provided CUI training that included the 11 CUI learning objectives or that Contractor C established a process to track the completion of CUI training. Ensuring that contractor personnel receive the proper CUI training when required should increase assurance that CUI in the hands of DoD contractors is properly protected and reduce the risk of inadvertent disclosure.

DoD Contractors Generally Applied the Required Markings as Required by DoD Guidance

The DoD contractors that we assessed generally applied the required markings to documents and e-mails as required by DoD guidance. To determine whether DoD contractor personnel marked CUI documents in accordance with DoDI 5200.48, we reviewed a nonstatistical sample of 103 of 687 contractor-created documents containing CUI that were created after DoD implemented its CUI Program and verified that the documents included the required CUI footers and headers, designation indicator, and CUI portion markings.²⁰ Of the 103 documents that we assessed:

- 3 (3 percent) did not include CUI headers and footers;
- 1 (1 percent) did not include a designation indicator; and
- 1 (1 percent) did not include proper portion markings.

²⁰ We did not identify discrepancies at Contractor A for applying the required markings because Contractor A did not create the documents that we reviewed instead, the documents were provided to Contractor A from the requiring activity.

Table 9 lists, by DoD contractor, the number of CUI documents that did not contain the required markings.

Table 9. Number of CUI Documents That Did Not Contain the Required Markings

DoD Contractor	Universe of Documents	Sample Size	Documents Without a CUI Header and Footer	Documents Without a Designation Indicator	Documents Without Proper Portion Markings
Contractor A	209	39	0	0	0
Contractor B	39	21	3	1	0
Contractor C	439	43	0	0	1
Totals	687	103	3	1	1

Source: The DoD OIG.

To determine whether DoD contractor personnel marked e-mails containing CUI in accordance with DoDI 5200.48, we selected a nonstatistical sample of 91 of 526 personnel from the DoD contractors we assessed. For each of the 91 personnel sampled, we assigned a random date between April 1, 2020, and January 29, 2023. We then requested that contractor e-mail administrators search the e-mails the 91 personnel sent on their assigned random date for specific keywords and provide us with all the e-mails containing the keywords. These keywords included:

- CUI;
- For Official Use Only;
- FOUO;
- Controlled Technical Information;
- CTI;
- Limited Dissemination Control;
- LDC; or
- contract-specific terms.

The search resulted in 20 e-mails to assess. Of the 20 CUI e-mails:

- 2 (10 percent) did not include CUI headers and footers; and
- 1 (5 percent) did not include a designation indicator.

Table 10 lists, by contractor, the number of CUI e-mails that were not marked in accordance with DoD CUI requirements. The e-mails we reviewed at Contractors B and C were all marked properly.

Table 10. Number of E-Mails Not Marked in Accordance with DoD Requirements

DoD Contractor	Universe of Personnel	Sample Size – Personnel	Number of CUI E-Mails Reviewed	E-Mails Without CUI a Header & Footer	E-Mails Without a Designation Indicator	E-Mails Without Proper Portion Markings
Contractor A	72	31	20	2	1	0
Contractor B	25	17	0	0	0	0
Contractor C	429	43	0	0	0	0
Totals	526	91	20	2	1	0

Source: The DoD OIG.

Contracting Officials Did Not Consistently Verify Whether DoD Contractors Completed or Tracked CUI Training

Contracting officials for Contractors B and C did not verify whether the DoD contractors completed and tracked CUI training. DoDI 5200.48 requires DoD contractor personnel who handle CUI to complete initial and annual refresher CUI training and maintain documentation of completed training for audit purposes. To determine whether DoD contractor personnel completed CUI training in accordance with DoDI 5200.48, we selected a nonstatistical sample of 91 of 526 personnel from the contractors and requested their most recent CUI training certificates.

For Contractor A, we reviewed 31 of 72 CUI training certificates and determined that the CUI training completed by Contractor A personnel was sufficient and all 31 certificates were current. However, none of the Contractor B CUI training was sufficient because the training did not include all 11 learning objectives and we could not review CUI training certificates for Contractor C because the contracting officer and contractor could not provide copies of the requested training certificates.

Contracting Officials Did Not Ensure that Contractor B Provided CUI Training That Included All 11 Learning Objectives

Air Force contracting officials did not ensure that Contractor B provided CUI training that included all 11 learning objectives. The OUSD(I&S) Information Security Policy Chief reviewed the CUI training developed by Contractor B and determined that it did not meet 3 of the 11 required DoD CUI learning objectives. Table 11 identifies the three DoD CUI learning objectives and how Contractor B was deficient with respect to those learning objectives.

Table 11. DoD CUI Learning Objectives Not Included in Training

CUI Learning Objectives Not Included in Training	Deficiencies
Identify the organizational index with CUI categories routinely handled by DoD personnel.*	While the training included the CUI category the contractor routinely handled, it did not include the organizational index associated with the CUI category.
Describe the CUI Registry, including purpose, structure, and location.	The training did not direct personnel to the CUI Registry maintained by NARA, and instead, directed personnel to a NARA blog related to CUI Registry updates.
Identify the offices or organizations with DoD CUI Program oversight responsibilities.	The training did not include the OUSD(I&S) responsibilities for oversight of the DoD CUI Program.

* An organizational index refers to the National Archives' industry groupings, such as defense, financial, and critical infrastructure, related to the CUI categories.

Source: The DoD OIG.

In March 2023, Contractor B updated its CUI training and we verified that the updated training included the three CUI learning objectives that the OUSD(I&S) Information Security Policy Chief stated were missing from the training. Therefore, we did not include a recommendation for Contractor B to update its CUI training in this report.

Contracting Officials Did Not Ensure Contractor C Tracked the Completion of CUI Training

MDA contracting officials did not ensure that Contractor C established a process to track the completion of CUI training. Although the MDA contracting officer stated that the MDA provided refresher CUI training to Contractor C personnel in accordance with DoDI 5200.48, as of April 2023, neither the MDA Contracting Officer nor Contractor C could provide evidence that Contractor C personnel completed the training.

Although we did not identify training deficiencies at Contractor A, the contracting officer never notified the contractor that the training was required; instead, the contractor independently identified a CUI training course and required its employees to take the course. That lack of notification and the training deficiencies we identified with Contractors B and C may also extend to other DoD contractors. Although DFARS clause 252.204.7012 requires contractors that maintain CUI to implement security controls specific to NIST SP 800-171, the clause does not include a requirement for contractors to complete initial and annual refresher CUI training. Ensuring that contractor personnel receive the CUI training should increase assurance that CUI in the hands of DoD contractors is properly protected and reduce the risk of inadvertent disclosure.

Management Comments on the Finding and Our Response

Although not required to comment, the Air Force Research Laboratory Chief of Contracting Office provided the following comments on the Finding.

Air Force Research Laboratory Chief of Contracting Office Comments

The Air Force Research Laboratory Chief of Contracting Office stated that Contractor B's contract included DFARS clause 252.204-7012, and that DD Form 254, "Department of Defense Contract Security Classification Specification," states that the contractor shall comply with DoDI 5200.48. The Chief stated that contracting officials are not required to track compliance with individual contract clauses, but they should take the appropriate action to ensure compliance if they identify that contract requirements are not being met. The Chief stated that contracting officials provided the proper documents and instructions to the contractor, and interpreted that it was the contractor's responsibility to conduct training in accordance with DoDI 5200.48. The Chief also stated that there is no written direction or policy stating that contracting officials are responsible to provide oversight of contractor employee training.

Our Response

While Contractor B's contract included DFARS clause 252.204-7012, the clause does not include a requirement for contractors to complete initial and annual refresher CUI training. We acknowledge that DD Form 254 states that the contractor must comply with DoDI 5200.48. However, if contracting officials do not track compliance with contract clauses, in particular DFARS clause 252.204-7012, there is an increased risk that contractors will not implement the required

security protocols to properly protect DoD information. Ensuring that contractor personnel are properly trained on identifying and marking information as CUI reduces the risk that DoD information is improperly withheld from authorized individuals or inadvertently disclosed to unauthorized individuals. Therefore, we made a recommendation to the Principal Director, Defense Pricing and Contracting (Recommendation B.1.a) to direct contracting officers for contracts that involve CUI to verify that CUI training completed by contractor personnel meets the required 11 DoD learning objectives as outlined in DoDI 5200.48.

Recommendations, Management Comments, and Our Response

Recommendation B.1

We recommend that the Defense Pricing and Contracting Principal Director:

- a. **Direct DoD contracting officers for contracts that involve controlled unclassified information to verify that contractor-developed controlled unclassified information training includes the 11 DoD learning objectives as outlined in DoD Instruction 5200.48 and that the contractors have established a process to maintain documentation of completed training for audit purposes.**

Defense Pricing and Contracting Principal Director Comments

The Defense Pricing and Contracting Principal Director, agreed, stating that Defense Pricing and Contracting and the Defense Acquisition Regulations System office will work through the process to consider implementation through rulemaking in Title 48 of the Code of Federal Regulations.

Our Response

Comments from the Principal Director partially addressed the recommendation; therefore, the recommendation is unresolved. Working through the process to **consider** [emphasis added] implementation does not meet the intent of the recommendation, which is to require contracting officers to verify that contractors who develop their own training include the 11 DoD learning objectives as described in DoDI 5200.48 and maintain documentation of completed training. Therefore, we request that the Defense Pricing and Contracting Principal Director provide additional comments within 30 days, describing how they will direct contracting officers to verify that contractor-developed CUI training includes the 11 DoD learning objectives and that the contractors established a process to maintain documentation of completed training for audit purposes.

Unsolicited Comments

Although not required to comment, the Air Force Research Laboratory Chief of Contracting Office recommended that contracting officers verify compliance with the CUI training requirements prior to contract award as part of the application process when contractors complete representations and certifications.

Our Response

We agree that contracting officers should verify compliance with CUI training requirements and have addressed that compliance through Recommendation B.1.b. We will include in our response to the Defense Pricing and Contracting Principal Director for Recommendation B.1.b that they consider making the requirement part of the application process when contractors complete representations and certifications.

- b. Coordinate with the Office of the Under Secretary of Defense for Intelligence and Security and the DoD Chief Information Officer to develop a Defense Federal Acquisition Regulation Supplement clause to require all DoD contractor personnel to complete the required DoD controlled unclassified information training.**

Defense Pricing and Contracting Principal Director Comments

The Defense Pricing and Contracting Principal Director, agreed, stating that Defense Pricing and Contracting and the Defense Acquisition Regulations System office will work through the process to consider implementation through rulemaking in Title 48 of the Code of Federal Regulations.

Our Response

Comments from the Principal Director partially addressed the recommendation; therefore, the recommendation is unresolved. Working through the process to **consider** [emphasis added] implementation, does not meet the intent of the recommendation, which is to ensure that the contract includes an enforceable clause that requires all DoD contractor personnel complete CUI training. Therefore, we request that the Defense Pricing and Contracting Principal Director provide additional comments within 30 days, describing their plans for developing a DFARS clause to require all DoD contractor personnel to complete the DoD CUI training.

Unsolicited Comments

Although not required to comment, the Air Force Research Laboratory Chief of Contracting Office recommended a provision in the representations and certifications activities, instead of a clause. The Air Force Research Laboratory Chief of Contracting Office stated that clauses are inserted into contracts and contractors are required to adhere to clauses, and that contracting officers typically do not ensure compliance with clauses.

Our Response

The requirement that all DoD contractor personnel complete the required DoD CUI training will be a provision embedded in the DFARS clause discussed in this recommendation. Although contracting officers may not ensure compliance with clauses, the clause will hold the contractor responsible for compliance and non-compliance could be grounds for withholding progress payments; foregoing remaining contract options; and potentially terminating the contract in part or in whole.

Recommendation B.2

We recommend that the Missile Defense Agency contracting officer require Contractor C to establish a process to maintain documentation of completed controlled unclassified information training for audit purposes.

Missile Defense Agency Executive Director Comments

The MDA Executive Director, responding for the MDA contracting officer, stated that the Defense Counterintelligence and Security Agency is responsible for CUI oversight for contractors.

Our Response

Comments from the MDA Executive Director did not address the specifics of the recommendation; therefore, the recommendation is unresolved. The Defense Counterintelligence and Security Agency is responsible for assessing contractor compliance with contractually-established CUI system requirements in DoD classified contracts. In addition, the Defense Counterintelligence and Security Agency provides, in coordination with the USD(I&S), security education, training, and awareness on the protection and management of CUI, to DoD personnel and contractors through the Center for Development of Security Excellence. However, the Defense Counterintelligence and Security Agency is not responsible for providing CUI training to DoD personnel and contractors and assessing contractor compliance with contractually established CUI system requirements in classified DoD contracts. The MDA is responsible for ensuring

its contractors maintain documentation of completed CUI training. While we recommended that the Defense Pricing and Contracting Principal Director direct DoD contracting officers for contracts that involve CUI to verify that the contractors have established a process to maintain documentation of completed training for audit purposes (Recommendation B.1.a), in the interim, the MDA should ensure that its contractors establish a process to maintain documentation of completed CUI training for audit purposes. Therefore, we request that the MDA Executive Director provide additional comments within 30 days, stating their plans for addressing the recommendation.

Appendix A

Scope and Methodology

We conducted this performance audit from October 2022 through May 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We conducted this audit at the direction of the Senate Armed Services Committee to review CUI marking guidance, training, and oversight. The Senate Armed Services Committee's Report Accompanying S. 4543, "James M. Inhofe National Defense Authorization Act for Fiscal Year 2023," directed the DoD Inspector General to:

conduct a review of CUI marking guidance, training and oversight and to provide a report to the congressional defense committees not later than June 1, 2023. In conducting this review, the committee directs DOD IG to examine a cross-section of military departments, agencies and activities, as well as documents provided by a range of Department contractors in the course of their work for the Government. Additionally, this review shall include:

- (1) The adequacy of existing CUI training and guidance to Government and industry personnel;
- (2) Mechanisms to track and remediate issues, as well as provide higher-level, systematic oversight, for Department-wide CUI marking directives including establishment of metrics and lessons learned;
- (3) A spot check assessment of a subset of Department-marked CUI documents to determine if they reflect current guidance including portion markings, as well as to identify any potential gaps or challenges with that guidance; and
- (4) Other matters as the DOD IG deems appropriate.

To understand the extent to which the DoD developed guidance, conducted training, and oversaw the implementation of the DoD CUI program, we interviewed officials from the:

- OUSD(I&S);
- Defense Pricing and Contracting;
- Army Deputy Chief of Staff, G-2;
- Army Contracting Command;

- CASCOM;
- Office of the Deputy Under Secretary of the Navy for Intelligence and Security;
- Marine Corps Systems Command;
- PFM LCES;
- CSG-1;
- Secretary of the Air Force, Office for Security, Special Program Oversight and Information Protection;
- Air Force Research Lab;
- 363d ISRW;
- 11 DOS;
- DOT&E;
- USSPACECOM;
- USSOCOM HQ;
- Defense Counterintelligence and Security Agency;
- DTRA;
- MDA; and
- OLDCC.

We selected a nonstatistical sample of 13 DoD Components and contractors to assess the extent to which they implemented, trained, and oversaw the DoD CUI Program. We interviewed Security Managers and Information Security Specialists at the selected DoD Components and contractors to identify policies and procedures to mark CUI documents and e-mails. We also reviewed a sample of CUI-marked documents and e-mails from each of the 13 DoD Components and contractors. Of the 13 DoD Components and contractors, we assessed:

- 5 Military Services: Army, Marine Corps, Navy, Air Force, and Space Force;
- 2 combatant commands;
- 1 Defense agency;
- 1 DoD Field Activity;
- 1 Under Secretary-level DoD Component; and
- 3 DoD contractors.²¹

²¹ DoD Field Activities provide support services to the DoD.

The three DoD contractors were selected from a universe of 58,137 contracts retrieved from USASpending.gov. See Appendix B for our sampling methodology.

Internal Control Assessment and Compliance

We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed internal control weaknesses related to implementing the DoD CUI Program at DoD Components and contractors. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Use of Computer-Processed Data

We used computer-processed data from USASpending, an open data source maintained by the Department of the Treasury, to develop a universe of DoD contracts. Specifically, we used the “Advanced Search” function in USASpending to scope our universe based on the contract period of performance, contract award amount, and location of work performance. We then used the universe to select a sample of DoD contracts to verify the contractor handled CUI.

To assess the reliability of the data, we interviewed the contracting offices responsible for overseeing the contract and reviewed the contract’s statement of work. We also reviewed select contract deliverables that contained the required markings. Therefore, the universe of DoD contracts was sufficiently reliable to test whether contractors trained personnel on CUI and marked deliverables containing CUI in accordance with DoDI 5200.48.

Use of Technical Assistance

The DoD OIG Quantitative Methods Division provided assistance in developing the nonstatistical sampling methodology that we used to select the DoD Components to review.

Prior Coverage

During the last 5 years, the DoD OIG issued one report discussing the DoD's implementation of the DoD CUI Program. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

DoD OIG

Report No. DODIG-2021-135, "Management Advisory Regarding the Continued Use of Unauthorized 'For Official Use Only' Markings and the Ineffective Implementation of the Controlled Unclassified Information Program," September 23, 2021

The DoD OIG determined that DoD officials failed to implement the DoD CUI Program and DoD Components continued to use unauthorized FOUO markings on new DoD documents. The DoD OIG recommended that the (USD[I&S]) develop and implement an action plan, with milestones, to oversee CUI training within the DoD and the effective implementation of the DoD CUI program by all DoD Components. In addition, the DoD OIG recommended that DoD leadership monitor effective implementation of the DoD CUI program and provide the DoD OIG prompt and appropriate CUI determinations and markings when advised that DoD Component source information is included in DoD OIG reports.

Appendix B

Sampling Approach

Selection of DoD Components and Contractors to Assess

We used a nonstatistical sampling approach to select the Military Departments and DoD Components to review for this audit. To determine the universe of Military Departments, we made separate lists of the sub-components within the U.S. Army, U.S. Marine Corps, U.S. Navy, U.S. Air Force, and U.S. Space Force. To determine the universe of DoD Components, we separated each component into three groups:

- DoD Defense Agencies,
- DoD Field Activities, and
- Other DoD Components.

Using the “RAND” [random] function in Microsoft Excel to eliminate selection bias, we assigned a random number to each Military sub-component, DoD Defense Agency, DoD Field Activity, and other DoD Components. We then sorted the selection from highest to lowest based on the assigned random values, and selected the first instance for each group. We selected the following eight of 209 Military Departments and DoD Components to determine the extent to which they designate, handle, and disseminate CUI.

- Army Combined Arms Support Command
- Marine Corps Systems Command, Portfolio Manager Logistics
Combat Element Systems
- Carrier Strike Group One
- 363d Intelligence, Surveillance, and Reconnaissance Wing
- 11th Delta Operations Squadron
- U.S. Special Operations Command Headquarters
- Defense Threat Reduction Agency
- Office of Local Defense Community Cooperation

We also nonstatistically selected the DOT&E and USSPACECOM.

Furthermore, we used a nonstatistical sampling approach to select the contractors to review for this audit. To determine the universe of DoD contractors, we used USASpending to source contractors active in FY 2022 and identified 58,137 possible contracts. We then categorized the contracts into the following tiers based on the size of the contractors.

- Small – Contractors that self-identified as a small contractor as defined by the Small Business Administration.²²
- Medium – Contractors with total DoD contract values in FY 2022 at or below \$44,779,459.99.
- Large – Contractors with total DoD contract values in FY 2022 above \$44,779,459.99.

Using the “RAND” function in Microsoft Excel to eliminate selection bias, we assigned a random number to each contractor within their respective tiers. We then sorted each tier from highest to lowest based on the assigned random values, and selected the first instance for each tier. The three DoD contractors selected report to the following contracting commands.

- Army Contracting Command
- Air Force Research Lab
- Missile Defense Agency

Sample Selection for Training Completion

We used a nonstatistical sampling approach to select the personnel within DoD Components and contractors to review training completion. To determine the universe of personnel, we requested DoD Components and contractors provide a list of personnel who handle CUI. Based on the universe for each DoD Component and contractor, we selected a sample size of up to 45 personnel. We used the “RAND” function in Microsoft Excel to eliminate selection bias. In total, we selected 463 of 17,173 personnel from the DoD Components and contractors we assessed.

Sample Selection for Documents

We used a nonstatistical sampling approach to select documents that DoD Components or DoD contractors had identified as containing CUI. To determine the universe of documents, we requested DoD Components and contractors provide a list of reports, policies, procedures, memorandums, and program-related documents that contain CUI. Based on the universe for each DoD Component and contractor, we selected a sample size of up to 45 documents. We used the

²² The Small Business Administration defines a small business as either a manufacturing company with 500 employees or fewer, or a non-manufacturing business with average annual revenues under \$7.5 million.

“RAND” function in Microsoft Excel to eliminate selection bias. In total, we selected 403 of 6,214 documents that the DoD Components and DoD Contractors we assessed had identified as containing CUI.

Sample Selection for E-mails

We used a nonstatistical sampling approach to select the personnel within DoD Components and contractors to review e-mails for markings in accordance with DoD requirements. To determine the universe of personnel, we requested DoD Components and contractors provide a list of personnel who handle CUI. Based on the universe for each DoD Component and contractor, we selected a sample size of up to 45 personnel. We used the “RAND” function in Microsoft Excel to eliminate selection bias. In total, we selected 461 of 12,864 personnel from the DoD Components and contractors we assessed.

For each of the 461 personnel sampled, we used the “RAND” function in Microsoft Excel to assign a random date between March 16, 2020, and January 29, 2023. We then requested the Defense Information Systems Agency Joint Service Provider, DoD Component, or contractor e-mail administrators to provide all e-mails sent by the 461 personnel on their assigned date that contained specific keywords that the DoD Components and contractors identified as CUI.²³ These keywords included:

- CUI;
- For Official Use Only;
- FOUO;
- Controlled Technical Information (CTI);
- Limited Dissemination Control;
- LDC; or
- Contract specific terms, program names and contract numbers.

We reviewed 51 CUI e-mails that presumably contained CUI to verify whether the e-mails contained the required headers and footers, portion markings, LDCs, and whether the DoD Component or contractor identified the responsible party for controlling the CUI.

²³ We did not assess whether information that DoD Components and contractors identified as CUI met the definition of CUI.

Management Comments

Army



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF, G-2
1000 ARMY PENTAGON
WASHINGTON, DC 20310-1000

DAMI-CDS (380)

MEMORANDUM FOR PROGRAM DIRECTOR FOR AUDIT, CYBERSPACE OPERATIONS DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program (Project No. D2022-D000CR-0177.000)

1. Reference memorandum, Office of the Inspector General, Department of Defense, 5 May 23, subject: Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program (Project No. D2022-D000CR-0177.000)

2. The Army has reviewed the draft Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program and agrees with the findings and recommendations offered. However, many portions of the report require additional information concerning the background of the Controlled Unclassified Information (CUI) program and its implementation by the DoD in order to fully understand the problems encountered.

3. The following language from the Findings Section offers an opportunity for the addition of a more precise history of CUI implementation.

Although the Office of the Under Secretary of Defense for Intelligence and Security (OUSD[I&S]) established CUI guidance, the DoD Components did not effectively oversee the implementation of that guidance to ensure that CUI documents and e-mails contained the required markings and that DoD and contractor personnel completed the appropriate CUI training.

The section implies that OUSD(I&S) issued sufficient guidance that would allow the DoD Components and agencies to establish the CUI program. In fact, OUSD(I&S) established the program by issuing DoD Instruction 5200.48. The instruction consisted of only 37 pages, most of which was focused on responsibilities for the program and contained very little that would allow the average user to properly identify and mark information as CUI. The CUI program is at least as complicated as the system for identifying and marking classified national security information. In order to establish the DoD classified information program, OUSD(I&S) issued a directive, an instruction and three manuals, containing hundreds of pages of information for users of the system to refer to. The lack of guidance required the components to issue supplementing guidance containing more detailed procedures for their users to employ. All of the

Army (cont'd)

DAMI-CDS (380)

SUBJECT: Audit of the DoD's Implementation and Oversight of the Controlled
Unclassified Information Program (Project No. D2022-D000CR-0177.000)

components had worked in collaboration with OUSD(I&S) for years to establish a viable
CUI program. A short instruction was insufficient to meet the needs of the department
without additional process guidance, such as a manual.

4. My point of contact is [REDACTED]

WATKIN.PAUL.RICHARD
ARD [REDACTED]

Digitally signed by
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DN: cn=PAUL R. WATKIN, o=DoD, ou=OSD, email=PAUL.RICHARD.WATKIN@DODIG.MIL, c=US, date=2023.05.17 12:39:22 -0400

PAUL R. WATKIN
Chief, Security Division

Army

United States Army Training and Doctrine Command



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND
950 JEFFERSON AVENUE
FORT EUSTIS, VIRGINIA 23604-5700

ATIR (11-7a)

11 May 2023

MEMORANDUM FOR Department of Defense Office of Inspector General (DODIG)
4800 Mark Center Drive, Alexandria, Virginia 22350-1500

SUBJECT: Command Reply to DODIG Draft Report, Audit of the DoD's Implementation
and Oversight of the Controlled Unclassified Information Program
(D2022-D000CR-0177.000).

1. HQ TRADOC's reply to the subject draft report is enclosed. We concur with
comments to Recommendation A.2 as addressed to the Commanding General of the
U.S. Army Training and Doctrine Command.

2. Point of contact [REDACTED]

Encl

CANEDY.SUSA Digitally signed by
CANEDY.SUSA [REDACTED]
N. [REDACTED] Date: 2023.05.11 11:38:14
-04'00'
DR. SUSAN CANEDY
Acting Deputy Chief of Staff, G-2

Army

United States Army Training and Doctrine Command (cont'd)

U.S. Army Training and Doctrine Command (TRADOC) Command Reply to Draft Report Recommendations

DOD Inspector General Draft Report, Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program
(D2022-D000CR-0177.000)

Recommendation A.2: The Commanding General of the Army Training and Doctrine Command should update the Central Army Registry to include the option to mark documents as controlled unclassified information and prompt personnel to add the designation indicator and portion markings, if applicable.

HQ TRADOC Response: Concur with Comments.

This recommendation should reference the Training Development Capability (TDC) and not the Central Army Registry (CAR). The TDC is the database used by training and education developers to manage learning products. The CAR is an Army repository of training products and links, but it is not the system that is used to generate these products. The documents have classification or control markings applied while they are being developed in TDC, prior to being uploaded to the CAR.

On 9 November 2020, the TRADOC Information Security Program Manager tasked all TRADOC personnel to immediately implement the requirements of DODI 5200.48 and mark all new products, active repositories, or other systems containing CUI with the appropriate CUI markings to ensure proper care and handling of sensitive, but not classified, material across the Army.

Prior to DODIG's audit, TRADOC was aware of the need to update the TDC to include the option to mark documents as CUI and initiated actions to implement the change. On 22 January 2021, the TRADOC Information Security Program Manager submitted a service ticket to the TDC proponent, Combined Arms Center – Training, to add CUI identification capability to TDC products. TDC has not yet been updated to provide this capability because the requirement has not been funded and the TRADOC Program Office had to switch the lead contractor for the program. The TRADOC Information Security Program Manager has confirmed that the service ticket was recently upgraded to a priority 1 request, and TRADOC estimates that the CUI marking capability should be complete by 31 May 2025.

Army

United States Army Training and Doctrine Command (cont'd)



UNCLASSIFIED

U.S. ARMY TRAINING AND DOCTRINE COMMAND
G-33 CURRENT OPERATIONS



HQ TRADOC TASKING ORDER

S: MULTIPLE

SUBJECT: TRADOC TASKORD IN203141 – Introduction and Implementation of the New Controlled Unclassified Information Marking Program

1. Situation: On 6 March 2020, DoD rescinded DODM 5200.01 vol4, “DoD Information Security Program: Controlled Unclassified Information (CUI)” and issued DoDI 5200.48, “Controlled Unclassified Information”. On 27 AUG 20, DA promulgated guidance to start using the new CUI markings to the force. On 5 NOV 20, DA G-2 mandated CUI training for all Army personnl. These changes require all personnel to understand and apply the new CUI markings to products containing CUI in accordance with the guidance outlined in DODI 5200.48 and the practical marking guidance contained in the DoD CUI Marking Aid.

2. Mission: All TRADOC personnel will immediately implement the requirements of DODI 5200.48 and mark all new products, active repositories, or other system containing CUI with the appropriate CUI markings in order to ensure proper care and handling of sensitive, but not classified, material across the Army.

3. Execution:

3.A. Suspense: Multiple

3.B. Concept of operations:

3.B.1. All TRADOC personnel and organizations will **immediately** start using the new CUI markings on all new products, to include emails, IAW DODI 5200.48 and the standards outlined in the DoD CUI Marking Aid.

3.B.2. TRADOC organizations will identify an individual as the Lead/Point of Contact for the management, implementation, or inspection of the CUI marking program for their organization, if such an individual has not already been identified, and ensure unit personnel are aware of their unit POC.

3.B.3. NLT 01 1600FEB21 all TRADOC personnel will take the online DoD Mandatory CUI Training located at <https://securityhub.usalearning.gov/index.html> on the Center for Development of Security Excellence Security Awareness Hub.

3.B.4. NLT 17 1600FEB21 subordinate security managers will collect completion data expressed as 1) Identification of the unit 2) number total personnel in the unit 3) number of personnel trained as of the date of submission and 4) percentage of personnel trained. Provide training data to Center of Excellence, School, or Command Security Managers or G2s.

3.B.5. NLT 03 1600MAR21 Command Security Managers or G-2s managing security programs will provide consolidated numbers to the TRADOC Lead identified in 5.A. Security Managers will immediately report any challenges experienced while trying to access online training to the TRADOC Lead identified in 5.A.. TRADOC does not currently have or authorize an alternate form of CUI training.

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Army

United States Army Training and Doctrine Command (cont'd)

UNCLASSIFIED

Subject: TRADOC TASKORD IN203141 – Introduction and Implementation of the New Controlled Unclassified Information Marking Program

3.B.6. NLT 02 1600APR21 TRADOC personnel managing systems, networks, and programs will include or update the splash screen warning and notice of consent to alert users of the presence of CUI.

3.B.7. NLT 02 1600APR21 TRADOC personnel managing systems, networks, and programs with drop down marking options, automatic marking options or other classification marking tools will ensure marking options are updated to the new CUI banner and portion markings and include designation indicator blocks. TRADOC personnel managing systems, networks, and programs on classified systems with drop down marking options, automatic markings, or other classification management tools will ensure marking options exist to properly mark classified documents comingled with CUI IAW the DoD CUI Marking Aid.

3.B.8. TRADOC personnel will **immediately** stop using legacy FOUO or PII coversheets and start using the SF 901 CUI coversheets available on the Army Publishing Directorate website under “forms”.

3.C. Tasks:

3.C.1. Acknowledge: Within 2 working days reply via e-mail to Lead POC Amy Schroeder, amy.m.schroeder3.civ@mail.mil.

3.C.2. All TRADOC Personnel:

3.C.2.(a). Start using the new CUI markings.

3.C.2.(b). Stop using the old FOUO marking.

3.C.2.(c). Start using the new CUI coversheets and replace the old FOUO or PII coversheets with the SF 901.

3.C.2.(d). Complete the online DOD Mandatory CUI Training. Notify your servicing S-2 or security manager upon completion of training

3.C.2.(e). Stop using DODM 5200.01 vol4.

3.C.3. TRADOC Organization Security Managers, Command Security Managers, or G-2s:

3.C.3.(a). Identify a POC/Lead to manage CUI implementation if someone has not already been identified and ensure personnel know their POC/Lead.

3.C.3.(b). Incorporate CUI standards into local security procedures and inspection checklists.

3.C.3.(c). Provide a roll up of unit CUI training completion data to the TRADOC Lead NLT 3 1600MAR 21.

3.C.3.(d). Ensure CUI guidance is incorporated into local security policies and procedures.

3.C.4. TRADOC Personnel managing systems, networks, and programs:

3.C.4.(a). Update systems to incorporate appropriate CUI markings, warnings, and designation indicator blocks.

3.C.4.(b). Update or add splash pages to identity portals that contain CUI.

3.D. Coordinating Instructions: None.

4. Admin and Log.

4.A. Enclosures

4.A.1. Encl 1 - Annex A - DoDI 5200.48

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Army

United States Army Training and Doctrine Command (cont'd)

UNCLASSIFIED

Subject: TRADOC TASKORD IN203141 – Introduction and Implementation of the New Controlled Unclassified Information Marking Program

4.A.2. Encl 2 - Annex B - Controlled Unclassified Information Markings, dated 23 OCT 20

4.A.3. Encl 3 - Annex C - G-2 CUI Memo with Enclosure 20200901

4.A.4. Encl 4 - Annex D - Categories of CUI

4.A.5. Encl 5 - Annex E - SF 901

4.A.6. Encl 6 - Annex F - CUI Limited Dissemination Controls

5. Command and Signal.

5.A. Lead.

5.B. Assist.

- 5.B.1. HQ TRADOC G-1/4 Security Manager
- 5.B.2. HQ TRADOC G-2 Security Manager
- 5.B.3. HQ TRADOC G-3/5/7 Security Manager
- 5.B.4. HQ TRADOC G-6 Security Manager
- 5.B.5. HQ TRADOC G-8 Security Manager
- 5.B.6. HQ TRADOC G-9 Security Manager
- 5.B.7. HQ TRADOC Command Group Security Manager
- 5.B.8. DCG ARNG Security Manager
- 5.B.9. DCG USAR Security Manager
- 5.B.10. HQ TRADOC IG Security Manager
- 5.B.11. HQ TRADOC ESO Security Manager
- 5.B.12. HQ TRADOC IRAC Security Manager
- 5.B.13. HQ TRADOC PAO Security Manager
- 5.B.14. HQ TRADOC QAO Security Manager
- 5.B.15. HQ TRADOC SJA Security Manager
- 5.B.16. HQ TRADOC CKO Security Manager
- 5.B.17. HQ TRADOC CPG Security Manager
- 5.B.18. Security Manager ATC Jackson
- 5.B.19. AVNCOE Security Manager
- 5.B.20. AWG Security Manager
- 5.B.21. CAC Command Security Manager
- 5.B.22. USACC Security Manager
- 5.B.23. Chaplain School Security Manager
- 5.B.24. C-IMT Security Manager
- 5.B.25. CMH Security Manager
- 5.B.26. CCOE Security Manager
- 5.B.27. DLIFLC Security Manager
- 5.B.28. FCOE Security Manager
- 5.B.29. ICOE Security Manager
- 5.B.30. JFKSWCS Security Manager
- 5.B.31. MCOE Security Manager
- 5.B.32. MSCOE Security Manager
- 5.B.33. NCOLCOE Security Manager
- 5.B.34. AVNCOE Security Manager
- 5.B.35. REF Security Manager

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United States Army Training and Doctrine Command (cont'd)

UNCLASSIFIED

Subject: TRADOC TASKORD IN203141 – Introduction and Implementation of the New Controlled Unclassified Information Marking Program

- 5.B.36. SCOE/CASCOM Security Manager
- 5.B.37. USAREC Security Manager
- 5.B.38. 108th TC Security Manager
- 5.B.39. 80th TC Security Manager
- 5.B.40. HQ TRADOC Cong Act Security Manager
- 5.B.41. HQ TRADOC CSM Security Manager
- 5.B.42. SCOE Security Manager
- 5.B.43. HQ TRADOC JAG Security Manager
- 5.B.44. MEDCOE Security Manager
- 5.B.45. HQ TRADOC SGS Security Manager
- 5.B.46. STB CDR
- 5.B.47. TRAC

5.C. Originator: DA-G-2, DAMI-CD INFOSEC Office.

5.D. Approval. [REDACTED]

//s//

DISTRIBUTION:

Commander
 U.S. Army Combined Arms Center
 U.S. Army Combined Arms Support Command
 U.S. Army Center of Initial Military Training
 U.S. Army Cadet Command
 U.S. Army Recruiting Command
 Centers of Excellence
 U.S. Army Soldier Support Institute
 Asymmetric Warfare Group

Commandants, TRADOC Schools

Director
 Army Capabilities Integration Center
 U.S. Army TRADOC Analysis Center
 Rapid Equipping Force
 TRAC

UNCLASSIFIED

Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS, UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

IN REPLY REFER TO:
22 May 23

MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL

SUBJECT: Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program, Project No. D2022-D000CR-0177.000, May 5, 2023

Pursuant to your May 5, 2023 draft report, the attachments provide Marine Corps technical comments and a security review on the content of the report.

The attached responses have been coordinated with the Headquarters, U.S. Marine Corps Offices of the Deputy Commandant for Information; Commander, Marine Corps Forces Cyber Command; and Commander, Marine Corps Systems Command.

My point of contact for this matter is [REDACTED]

A handwritten signature in black ink, appearing to read "C. Dove".

Charles K. Dove
Head, Audit Coordination
Office of the Director, Marine Corps Staff

Attachments:
As stated

Marine Corps (cont'd)

SELECT A CLASSIFICATION
DoD ISSUANCE COORDINATION RESPONSE

COMPONENT COORDINATOR RESPONSE

May 16, 2023

SUBJECT: Proposed Administrative Instruction DoD IG Draft Report D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program".

On behalf of Marine Corps Systems Command a technical review was conduct on the subject draft report, subject matter expert comments are enclosed.

[REDACTED]

DD FORM 818, AUG 2016 **SELECT A CLASSIFICATION**

Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	1	i	4	<input type="checkbox"/>	<p>Coordinator Comment and Justification: "The National Archives and Records Administration and DoD CUI Registries state that the FED ONLY and FEDCON LDCs authorize the sharing of CUI only with employees of the Executive Branch, which by definition excludes Congress. <i>That exclusion contradicts a statement made to us by a NARA official, who stated that LDCs were not intended to prevent Congress from receiving documents with the required markings or impede Congressional oversight.</i>"</p> <p>The CUI program was established specifically for the executive branch. Although Congress is not part of the executive branch, per DODI 5200.48, pg 12, para 3.1 (d). Unlike classified information, an individual or organization generally does not need to demonstrate a need-to-know to access CUI, unless required by a law, regulation, or government-wide policy, but must have a lawful governmental purpose for such access.</p> <p>NARA was correct in stating LDCs were not intended to prevent Congress from receiving CUI documents. The Senate Armed Services Committee has a lawful government purpose for access. Personnel outside the executive branch who are given access to DOD CUI should sign a CUI Non-Disclosure Agreement (NDA) or agree not to disclose the CUI to the public.</p> <p>Coordinator Recommended Change: Recommend CUI training (beyond the DOD Mandatory CUI training) for the Senate Armed Services Committee so they better understand the CUI program. One article quoted someone as saying the DOD made a signature block CUI, when clearly, they did not understand marking.</p> <p>Originator Response: Choose an item.</p>	

DD FORM 818, AUG 2016 **REPLACES SD FORM 818, WHICH IS OBSOLETE**

SELECT A CLASSIFICATION

2

Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					Originator Reasoning:	
U	2	i	Objective	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The 2nd sentence (<i>to determine whether the documents had CUI headers and footers, a designation indicator, and portion markings as required by DoD guidance (referred to as the required markings throughout this report)</i>) leads the reader to think that portion marking of CUI in a document is required, however portion markings are OPTIONAL per DODI 5200.48, Page 14, Section 3.4 b.</p> <p>Coordinator Recommended Change: Insert a note to tell the reader that at this time, portion marking of CUI documents are optional but will be mandatory before CY 2029. Recommend this be done throughout the document.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	
U	3	2	National Archives and Records Administration CUI Registry	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The 2nd sentence in the 2nd paragraph reads in part: "<i>According to the CUI Registry, agencies may only apply an LDC if they have a "lawful government purpose..."</i>" All executive agencies have a lawful government purpose to create CUI so this statement is inaccurate.</p> <p>Coordinator Recommended Change: Edit to read: "NARA allows agencies to place additional limits on disseminating CUI only through use of the limited dissemination controls (LDCs) approved by the CUI EA and published in the CUI Registry. Using limited dissemination controls to unnecessarily restrict access to CUI is contrary to the goals of the CUI Program."</p>	

DD FORM 818, AUG 2016

REPLACES SD FORM 818, WHICH IS OBSOLETE
SELECT A CLASSIFICATION

3

Marine Corps (cont'd)

Final
Report Reference

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					<p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	
U	4	5	Figure 1	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The identified "Source" for the learning objective is incorrectly identified as <u>the DoD OIG</u>. The source is "ISOO Notice 2016-01" which is referenced in DoDI 5200.48 page 18 -19. Lastly, DoDI 5200.48 tells us that the DoD CIO is supposed to coordinate with USD(I&S) to "Integrate training on safeguarding and handling CUI into updates to initial and annual cybersecurity awareness training."</p> <p>Coordinator Recommended Change: Change source to "ISOO Notice 2016-01"</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	
U	5	5	DoD CUI Registry	<input type="checkbox"/>	<p>Coordinator Comment and Justification: We do not know where footnote 6 came from however it is incorrect. It reads: "CTI is data with military or space application that are used in the development, design, production, operation, maintenance, and testing of goods or materiel."</p> <p>Coordinator Recommended Change: Delete and insert: "Controlled Technical Information (CTI) means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination."</p>	

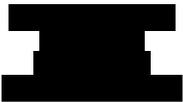
DD FORM 818, AUG 2016

REPLACES SD FORM 818, WHICH IS OBSOLETE
SELECT A CLASSIFICATION

4

Page 6

Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					Reference "NARA definition and DFARS 204.7013. Originator Response: Choose an item. Originator Reasoning:	
U	6	6	Table 2	<input type="checkbox"/>	Coordinator Comment and Justification: The table reference is listed as DoD OIG. The table came from DoDI 5230.24 "Distribution Statements on DoD Technical Information." Coordinator Recommended Change: Change source to read: "DoDI 5230.24 "Distribution Statements on DoD Technical Information" Originator Response: Choose an item. Originator Reasoning:	
U	7	6	Table 2	<input type="checkbox"/>	Coordinator Comment and Justification: The distribution statements listed in the description column of the table are factually incorrect for Distribution Statement B through E. For example, Distro B reads: " <i>Distribution authorized to employees of the Executive Branch departments and agencies only. Other requests for the document shall be referred to the controlling DoD office.</i> " The actual Distribution Statement B from DoDI 5230.24 which is assigned to technical documents reads: "Distribution Statement B. Distribution authorized to U.S. Government agencies [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office]."	

DD FORM 818, AUG 2016

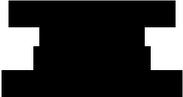
REPLACES SD FORM 818, WHICH IS OBSOLETE
SELECT A CLASSIFICATION

5

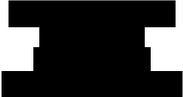
Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
					<p>Placing the other description could lead the reader to think that the DoD does not place the "reason" or the "date of determination" in the distribution statement on documents. Additionally, Distro D specifies "U.S. Contractors" while the description in the Audit report simply states "contractors." Lastly the word "shall" was replaced with "must" in the statements.</p> <p>Coordinator Recommended Change: Change the "description column entries for Distribution Statement B through E to read exactly what the DoD Instruction 5230.24 reads.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	8	7	DoD CUI Marking Requirements	<input type="checkbox"/>	<p>Coordinator Comment and Justification: First sentence top of the page reads: <i>"Although CUI is not classified information, DoDI 5200.48 states that CUI should be identified in a security classification guide, memorandum, or other documented guidance to ensure that it receives the appropriate markings and protection."</i></p> <p>While we agree that CUI should be identified in an SCG, this statement is not stated in DoDI 5200.48 "Controlled Unclassified Information (CUI)" or DoDM 5200.45 "Instructions for Developing Security Classification Guides." We do not know where it was pulled from.</p> <p>Coordinator Recommended Change: Enter the correct reference in the first sentence or delete the first sentence.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	9	7	DoD CUI Marking Requirements	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The second sentence from the top of the page is misleading, it reads: "<i>The FY 2023 National Defense Authorization Act requires that, by January 2029, all DoD program (security) classification guides and program protection plans include guidance for the proper marking and use of document portion markings for CUI.</i>"</p> <p>Coordinator Recommended Change: Replace with the following: "The FY 2023 National Defense Authorization Act requires that, by January 2029, all DoD program classification guides (for classified programs) and all program protection plans (for unclassified programs) include guidance for the proper marking for controlled unclassified information at their next regularly scheduled update."</p> <p>This statement is more accurate.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

SELECT A CLASSIFICATION					
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"					
U	10	7	Foot note 8	<input type="checkbox"/>	<p>Coordinator Comment and Justification: I do not know where footnote 8 came from, however it is factually wrong. Footnote reads: <i>"A security classification guide is a written record of the decision or series of decisions identifying the elements of system, plan, program, project, or mission information requiring CUI designations, and establishes the level and duration of CUI designation for each element."</i></p> <p>Security classification guides are not written to protect CUI. They are written to protect "Classified" information, although information determined to be CUI or even Unclassified may be described in the SCG to reduce ambiguity.</p> <p>DoDM 5200.45 states: "Ensure that the security classification guide: Precisely states the specific information elements to be protected. Use clear, precise language or statements to describe which items of information require classification. It is also advisable to include items that are designated as controlled unclassified information (CUI) (e.g., FOUO) or that are unclassified, when that will assure users of the guide that this information is, in fact, CUI or unclassified and was not inadvertently omitted."</p> <p>Coordinator Recommended Change: Change footnote 8 to read: "A security classification guide is the written record of an original classification decision or series of decisions regarding a system, plan, program, project, or mission. It is also advisable to include items that are designated as controlled unclassified information (CUI) or that are unclassified, when that will assure users of the guide that this information is, in fact, CUI or unclassified and was not inadvertently omitted."</p> <p>Reference: DoDM 5200.45 Encl 2 page 9. Paragraph 2.a.(1).</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>

Marine Corps (cont'd)

Final
Report Reference

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCURRENCE?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	11	7	Table 3. CUI Marking Requirements		<p>Coordinator Comment and Justification: Information was omitted from line 1. "The first line is not used "If letterhead or another standard indicator of origination is used, this line may be omitted."</p> <p>Coordinator Recommended Change: Change #1 to read: "The first line must identify the name of the DoD Component making the determination that the information is CUI. The first line is not used "If letterhead or another standard indicator of origination is used, this line may be omitted."</p> <p>And change the source of the table from "The DoD OIG to DoDI 5200.48 CONTROLLED UNCLASSIFIED INFORMATION (CUI)"</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	
U	12	10	Review of Internal Controls	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The fourth sentence, (<i>In addition, CASCOM, Pfm LCES, CSG-1, the 363rd ISRW, 11th DOS, USSOCOM, USSPACECOM, DTRA, and Contractor C did not complete the required CUI training</i>) makes it appear that the command did not take ANY CUI training, which is not true.</p> <p>Coordinator Recommended Change: Recommend a table be inserted in the document to reflect the % of personnel who did or did not complete the training.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

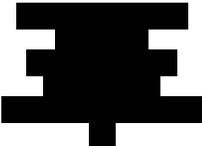
Page 8

Page 11

Marine Corps (cont'd)

**Final
Report Reference**

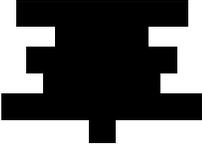
Page 10-11

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	13	10	Review of Internal Controls		<p>Coordinator Comment and Justification: Sentence states: "Specifically, personnel within CASCOM, PFM LCES, CSG-1, the 363rd ISRW, 11th DOS, DOT&E, USSOCOM, USSPACEEOM, DTRA, OLDCC, Contractor A, Contractor B, and Contractor C did include the required markings in documents or emails containing CUI in accordance with DoDI 5200.48." This sentence is misleading. Additionally, I believe it intended to say "did not".</p> <p>Coordinator Recommended Change: "Specifically, personnel within CASCOM, PFM LCES, CSG-1, the 363rd ISRW, 11th DOS, DOT&E, USSOCOM, USSPACEEOM, DTRA, OLDCC, Contractor A, Contractor B, and Contractor C did not consistently include the required markings in all documents or emails containing CUI in accordance with DoDI 5200.48."</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

Final
Report Reference

Page 11

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	14	10	Review of Internal Controls	<input type="checkbox"/>	<p>Coordinator Comment and Justification: Sentence states: "In addition, CASCOM, PFM LCES, CSG-1, the 363rd ISRW, 11th DOS, USSOCOM, USSPACECOM, DTRA, and Contractor C did not complete the required CUI training." This sentence is misleading. PFM LCES had some people who completed the training, but were unable to provide a copy of their training certificate.</p> <p>Coordinator Recommended Change: "In addition, some personnel within CASCOM, PFM LCES, CSG-1, the 363rd ISRW, 11th DOS, USSOCOM, USSPACECOM, DTRA, and Contractor C were unable to provide evidence that they completed the required CUI training."</p> <p>Originator Response: Choose an item.</p>	

Marine Corps (cont'd)

**Final
Report Reference**

Page 12

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	15	11	Finding A	<input type="checkbox"/>	<p>Coordinator Comment and Justification: The 2nd bullet discusses use of CUI marking in email, however it does not differentiate between email with CUI in the body of the email or an email being used as a transmittal for a CUI attachment.</p> <p>Email being used as a transmittal does not require a CUI designation indicator or portion markings. This also discusses the 7% that did not use portion markings although PORTION MARKINGS are OPTIONAL.</p> <p>Coordinator Recommended Change: Reword the section to reflect the fact that email, used as a CUI transmittal document, does not require a CUI Designation Indicator or Portion marking. A CUI header and footer are required, and the email must be encrypted.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

Final
Report Reference

Page 12

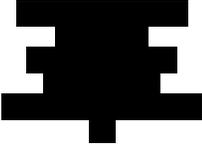
Page 14

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	16	11	Finding A	<input type="checkbox"/>	<p>Coordinator Comment and Justification: Finding "A" does not discuss the DoD CIO requirement that email containing CUI must be encrypted in transmission. This is a more serious issue than portion marking because email can sit on a server for some time and our adversary's data mine servers.</p> <p>Coordinator Recommended Change: Complete a review of the selected email to determine how many were or were not encrypted in transmission.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	[REDACTED]
U	17	12	4	<input type="checkbox"/>	<p>Coordinator Comment and Justification: This paragraph is misleading. Portion markings are optional and this paragraph along with Figure 2 leads reader to believe portion markings are required.</p> <p>Coordinator Recommended Change: Insert example from Pages 4 & 5 of the DOD CUI Marking Guide to show an example of a CUI document without portion markings.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	[REDACTED]

Marine Corps (cont'd)

**Final
Report Reference**

Page 12

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	18	11	Footnote 14...		<p>Coordinator Comment and Justification: Sentence states: "We considered a CUI training certificate as current if it was completed within a year before our site visit." This sentence is inaccurate. PFM LCES was asked to provide FY22 training certificates. Nine of the 10 LCES personnel who were unable to provide a FY22 certificate were able to provide a FY23 certificate completed before the audit.</p> <p>Coordinator Recommended Change: We considered a CUI training certificate as current if it was completed during the Fiscal Year before our site visit."</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

Final
Report Reference

Page 16

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	19	15	4	<input type="checkbox"/>	<p>Coordinator Comment and Justification: "The DoD CUI Markings Guide provides the following examples (Figure 3) of how to apply the required markings for e-mails with and without an attachment that contains CUI."</p> <p>This sentence is misleading. Figure 3 shows 2 examples of emails containing CUI in the body of the email. One with portion markings which are optional, and one without portion markings.</p> <p>Neither is an example of an email used as a transmittal for CUI document that does not contain CUI in the body of the email.</p> <p>Page 10 of the DOD CUI Marking Guide also gives an example of an unclassified email used as a transmittal for a CUI document.</p> <p>Coordinator Recommended Change: Insert a good example of an email with an attachment that contains CUI. We teach that the header and footer should read: CUI (With attachment) and that the email must be encrypted.</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

**Final
Report Reference**

Page 18

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	20	17	2	<input type="checkbox"/>	<p>Coordinator Comment and Justification: <i>The search resulted in 75 e-mails to assess. Of the 75 CUI e-mails:</i></p> <ul style="list-style-type: none"> • 70 (93 percent) did not include CUI footers and headers; • 68 (91 percent) did not include a designation indicator; and • 5 (7 percent) did not include proper portion markings. <p>Does not delineate between emails containing CUI in the body versus email used as a transmittal for a document marked CUI.</p> <p>A CUI Designation indicator is not required when an email is used as a transmittal. The body of the email must remain unclassified but there should be CUI (With attachment) in the header and footer. Portion markings are optional.</p> <p>Coordinator Recommended Change:</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

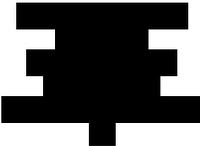
Marine Corps (cont'd)

Final
Report Reference

Page 20

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"

CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	21	19	DoD Component Personnel el...		<p>Coordinator Comment and Justification: Sentence states: "To determine whether DoD Component personnel completed CUI training in accordance with DoDI 5200.48, we selected a nonstatistical sample of 372 of 16,647 personnel from the DoD Components assessed and requested their most recent CUI training certificates." The last part of this sentence is inaccurate. Personnel were asked to provide their FY 22 training certificate, not their most recent certificate. Nine of the 10 LCES personnel who were unable to provide a FY22 certificate where able to provide a FY23 certificate completed before the audit.</p> <p>Coordinator Recommended Change: "To determine whether DoD Component personnel completed CUI training in accordance with DoDI 5200.48, we selected a nonstatistical sample of 372 of 16,647 personnel from the DoD Components assessed and requested their Fiscal Year 22 certificates."</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

**Final
Report Reference**

Page 23

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	22	22	3		<p>Coordinator Comment and Justification: First Sentence reads: <i>"Unnecessarily restricting the dissemination of DoD information by marking it CUI when the information does not require CUI marking or using LDCs inappropriately can limit the transparency of information that should be available for a wider audience."</i></p> <p>Per DODI 5200.48, pg 17, para 3.6.a: The authorized holder of a document or material is responsible for determining, at the time of creation, whether information in a document or material falls into a CUI category. If so, the authorized holder is responsible for applying CUI markings and dissemination instructions accordingly.</p> <p>The CUI program only applies to the executive branch, therefore there is no wider audience than FEDCON. However, anyone outside the executive branch who has a lawful government purpose to access DOD's CUI may do so when a request is made to the DOD with an agreement that they will not release to the public.</p> <p>Coordinator Recommended Change: Change second sentence to read: "The authorized holder of a document or material is responsible for determining, at the time of creation, whether information in a document or material falls into a CUI category. If so, the authorized holder is responsible for applying CUI markings and dissemination instructions accordingly."</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

Final
Report Reference

Page 23

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	23	22	3		<p>Coordinator Comment and Justification: <i>Line 11, Sentence: "That exclusion contradicts a statement made to us by a NARA official, who stated that LDCs were not intended to prevent Congress from receiving documents with the required markings or impede Congressional oversight."</i></p> <p>See first comment on page 2 of this document.</p> <p>Limited Dissemination Control markings control secondary distribution. For example: MCSC as the originator of a document containing CUI and marked with the LDC of (DL ONLY), may provide the document to Congress for their reference and review, even though Congress is NOT on the documents DL. Congress may only further distribute the document to organizations that are on the document dissemination list.</p> <p>Coordinator Recommended Change:</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

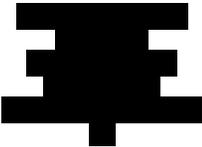
**Final
Report Reference**

Page 23

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DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	24	22	3		<p>Coordinator Comment and Justification: Line 13, Sentence: <i>"The exclusion also contradicts DoDI 5230.24, which states that DoD Components may not use distribution statements (which aligns with the NARA LDCs) as authority to deny information to Congress or any Federal, State, or Local Government agency that requires such information for regulatory or other official Government purposes."</i></p> <p>From DODI 5230.24, Distribution Statements on DOD Technical Information glossary: <i>Distribution Statement "A statement used to mark technical information to indicate the extent of its availability for secondary distribution, release, and disclosure"</i>.</p> <p>The originator of a document containing CUI technical information marked with ANY distribution statement, may share that document with Congress when requested. The distribution statement does not prevent the originator of a document from sharing with Congress.</p> <p>Explanation: Distribution Statements control secondary distribution. For example: MCSC as the originator of a document containing CUI, marked with Distribution Statement D (DoD and U.S. DoD Contractors only), may provide the document to Congress for their use, even though Congress is not a part of DoD. Congress may only further distribute the document to a DoD organization or U.S. DoD Contractor.</p> <p>Coordinator Recommended Change:</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Marine Corps (cont'd)

Final
Report Reference

SELECT A CLASSIFICATION						
DoD ISSUANCE COORDINATION RESPONSE: DODIG Draft Report, Project No. D2022-D000CR-0177.000, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program"						
CLASS	#	PAGE	PARA	BASIS FOR NON-CONCUR?	COMMENTS, JUSTIFICATION, AND ORIGINATOR JUSTIFICATION FOR RESOLUTION	COMPONENT AND POC NAME, PHONE, AND E-MAIL
U	25	31	Appx A		<p>Coordinator Comment and Justification: Sixth bullet from the top states: "U.S. Marine Corps Systems Command". Naming convention is incorrect.</p> <p>Coordinator Recommended Change: Change to "Marine Corps Systems Command".</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning: Correct name of the Command</p>	
U	26	34	Appx B - Selection fo DoD Components...		<p>Coordinator Comment and Justification: List states: "U.S. Marine Corps Logistics Combat Element Systems". Naming convention is incorrect. PFM LCES is one of several portfolios under Marine Corps Systems Command.</p> <p>Coordinator Recommended Change: "Marine Corps Systems Command, Portfolio Manager Logistics Combat Element Systems"</p> <p>Originator Response: Choose an item.</p> <p>Originator Reasoning:</p>	

Page 42

Page 45

Air Force



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

OFFICE OF THE SECRETARY

19 May 2023

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

FROM: SAF/AA

SUBJECT: DoD Office of Inspector General Draft Report, "Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program" (Project No. D2022-D000CR-0177.000)

The Department of the Air Force (DAF) has reviewed the subject report and concurs as written. However, the draft report does require some minor administrative changes, so that it correctly identifies the appropriate DAF office of primary responsibility (OPR). Those changes are as follows:

The Director of Information Management, Office of the Administrative Assistant to the Secretary of the Air Force (SAF/AAI), not the Commanding General of Air Forces Cyber, is the correct OPR to ensure DAF publications [forms] are updated with the new controlled unclassified information (CUI) marking requirements.

The Director of Security, Special Program Oversight, and Information Protection, Office of the Administrative Assistant to the Secretary of the Air Force (SAF/AAZ), oversees the DAF CUI program.

Throughout the report, the "11th Delta Operations Squadron" (11th DOS) should be replaced with, *11th Delta Operations Squadron (11 DOS)*; and the "363d Intelligence, Surveillance, and Reconnaissance Wing (ISRW)" should be replaced with, *363d Intelligence, Surveillance, and Reconnaissance Wing (ISRW)*.

The DAF concurs with Recommendation A.4., that all applicable DAF publications [forms] must be updated in accordance with the new CUI marking requirements, as identified in DoDI 5200.48, *Controlled Unclassified Information*. In immediate response to this recommendation, a listing has already been generated, and SAF/AAZ and SAF/AAI, along with the OPR's for the respective DAF form, will make the corrections within one calendar year of the date the final DODIG report is published.

The DAF activities that were assessed as a part of this audit were afforded an opportunity to provide responses, which are being provided as attachments.

SAF/AAZ has conducted a security review and confirms that the report does not contain DAF-controlled CUI that would preclude it from being released to the public.

**Final
Report Reference**

**Redirected
Recommendation A.4**

Air Force (cont'd)

My point of contact for this action is [REDACTED]

SANDERS.DOUGL
AS.D. [REDACTED]
Digitally signed by SANDERS DOUGLAS.D [REDACTED]
Date: 2023.05.19 16:53:51 -04'00'
DOUGLAS D. SANDERS, SES, DAF
Deputy Administrative Assistant

Attachments:

1. 363d ISRW Response to DoDIG Draft Report
2. AFRL/RWK Response to DoDIG Draft Report
3. 11 DOS Response to DoDIG Draft Report

Air Force

363d Intelligence, Surveillance, and Reconnaissance Wing

Final Report Reference

From: [MACK, ERIC G Col USAF ACC 363 ISRW/CC](#)
 
Subject: Tab 1. 363 ISRW input to SAF response of Audit of DoD Implementation and Oversight of the CUI Program (DODIG Project No. D2022-D000CR-0177)
Date: Monday, May 15, 2023 3:09:35 PM

Good morning,

Thank you for allowing us the opportunity to coordinate on the DoDIG Audit Report regarding CUI. We will defer to you on selecting the appropriate OPR to address DODIG Recommendation A.4: "We recommend that the Commanding General of Air Forces Cyber update standard forms and templates to include controlled unclassified information headers and footers, and prompt personnel to add the designation indicator and portion markings."

We would like to clarify our role in one cross-DoD shortfall. The report identified the 363 ISRW (as well as DTRA, CSG-1, SOCOM, USPACECOM and others) as organizations that did not complete CUI training. More specifically, "the 363 ISRW and DTRA had their personnel complete "Unauthorized Disclosure of Classified Information and Controlled Unclassified Information" as their initial and recurring CUI training even though this class only addresses 3 of the 11 stated CUI Training Objectives." As the report states, this was due to a lack of clear guidance across the formation.

DoDI 5200.48 and the 2021 SAF memorandum "Controlled Unclassified Training (Jun 2021)" both reference the Center for Development of Security Excellence (CDSE) as the authorized source for CUI training. However, neither directive outlined the specific course to take, which led to 363 ISRW Airmen completing the "Unauthorized Disclosure of Classified Information and Controlled Unclassified Information" course instead of the "DoD Mandatory Controlled Unclassified Information (CUI) Training." Therefore, we support the DoDIG recommendation for OUSD(I&S) to reissue notification to all DoD Component Heads that the Center for Development of Security Excellence CUI training, "DoD Mandatory Controlled Unclassified Information (CUI) Training," is available and meets the standard for initial and reoccurring training. The recent addition of this course to USAF's MyLearning platform will certainly prevent further confusion.

With regard to the statement on page 18 "For example, the 363rd ISRW Commander stated that the Air Force previously relied on a marking tool built into its e-mail system to assist personnel in marking CUI e-mails; however, the tool was decommissioned during the DoD's transition to Office 365." We would like to point out that SIPRNet Webmail now has a CUI dropdown option, though this function still does not exist on USAF NIPRNet, SIPRNet, and JWICS Outlook applications.

My POC for this matter is the .

V/r,

ERIC G. MACK, Colonel, USAF
 Commander, 363d ISR Wing



Page 19

Air Force

Air Force Research Laboratory

Final
Report Reference

Controlled Unclassified Information



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESEARCH LABORATORY
EGLIN AIR FORCE BASE FLORIDA

17 May 2023

MEMORANDUM TO: DoD OIG/Audit/CSO

FROM: AFRL/RWK

REFERENCE: Response to Project No. D2022-D000CR-0177.000

1. AFRL/RWK is providing the following responses to the DoD draft audit pertaining to KTR B and contract [REDACTED]

Finding: Page 25, Finding B, DoD contracting officials did not ensure that KTR B provided CUI training that included the 11 CUI learning objectives.

Page 32

Response: The contract includes DFARS 252.204-7012 "Safeguarding Covered Defense Information and Cyber Incident Reporting." Implementation guidance for Safeguarding Covered Defense was provided on 17 Sep 2017 by Defense Pricing/Defense Procurement and Acquisition Policy. The contracting office is not required to track compliance with individual contract clauses. The contractor is required to adhere to the contract and when identified that a particular portion of contract is not being met the contracting office should take the appropriate action to ensure compliance.

The DD254 Contract Security Classification, "Controlled Unclassified Information (CUI) Attachment" states the contractor shall comply with DoDI 5200.48, "Controlled Unclassified Information". The DoDI, pgs. 18-19 list the 11 CUI learning objectives. Contracting complied with providing the proper documents and instructions to the contractor. RWK interprets it is the contractor's responsibility to conduct training IAW the DoD instructions. RWK cannot find written direction or policy that Contracting has the responsibility to provide oversight of a contractor's employee training.

Finding: Page 27, USAF Contracting Officials did not ensure that KTR B provided CUI training that included the 11 learning objectives. KTR B did not meet 3 of the 11 required DoD CUI learning objectives.

Page 35

Response: There is no requirement for contracting to ensure compliance with every clause of a contract. The implementation guidance of clause DFARS 252.204-7012 "Safeguarding Covered Defense Information and Cyber Incident Reporting" were followed. DoDI 5200.48, para 2.3.d indicates that DSCA, "Provides, in coordination with the USD(I&S), security education, training, and awareness on the required topics identified in Section 2002.30 of Title 32, CFR, including

Controlled Unclassified Information

Air Force

Air Force Research Laboratory (cont'd)

Controlled Unclassified Information

protection and management of CUI, to DoD personnel and contractors through the Center for Development of Security Excellence (CDSE).”

Recommendation B.1: Page 29a, Direct DoD contracting officers for contracts that involve controlled unclassified information to verify that contractor-developed controlled unclassified information training includes the 11 DoD learning objectives outlined in DoD Instruction 5200.48 and that the contractors have established a process to maintain documentation of completed training for audit purposes.

Response: This is a daunting task to put this responsibility on contracting officers to ensure compliance. I would recommend that this be accomplished as a part of System Award Management (SAM.gov) when contractors complete representations and certifications that this be made part of that application. Then contracting officer can check compliance prior to awarding contract.

Recommendation B.1: Page 29b, Coordinate with the Office of the Under Secretary of Defense for Intelligence and Security and the DoD Chief Information Officer to develop a Defense Feral Acquisition Regulation Supplement clause to require all DoD contractor personnel to complete the required DoD controlled unclassified information training.

Response: I would recommend a provision that is included in representations and certifications as opposed to a clause. Clauses are inserted into contracts and contractors are required to adhere to the clauses. Contracting officers do not typically ensure compliance with each clause.

2. Several other recommendations have been made, A.1- A.4, however, those areas pertain to other agencies, and it would be inappropriate to comment on recommendations or to provide alternative recommendations for other agencies.

ST
VINCENT.MELISSA
A.A. [REDACTED]
MELISSA A. ST. VINCENT, DO-04
AFRL/RWK Chief of Contracting Office

Digitally signed by ST
VINCENT.MELISSA.A [REDACTED]
Date: 2023.05.17 16:55:18
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Controlled Unclassified Information

**Final
Report Reference**

Page 37

Page 38

Space Force

11th Delta Operations Squadron

UNCLASSIFIED
DoD ISSUANCE COORDINATION RESPONSE

COMPONENT COORDINATOR RESPONSE

[Click here to enter a date.](#)

SUBJECT: Proposed Administrative Instruction DoD IG Project No. D2022-D000CR-0177.000, Audit of the DoD's Implementation and Oversight of the Controlled Unclassified Information Program

On behalf of my Component, my formal response to this issuance is: Concur without comment.

My point of contact for this action is [REDACTED]

5/16/2023

X Justin Fernandez

Double-click the 'X' to insert a digital signature or print and sign a hard copy.
Signed by: FERNANDEZ.JUSTIN.C [REDACTED]

Coordinating Official's Name: Lt Col Justin Fernandez
Coordinating Official's Position Title: Commander, 11 DOS
Coordinating Official's Component: Department of the Air Force

DD FORM 818, AUG 2016

UNCLASSIFIED

Director, Operational Test and Evaluation



OPERATIONAL TEST
AND EVALUATION

OFFICE OF THE SECRETARY OF DEFENSE
1700 DEFENSE PENTAGON
WASHINGTON, DC 20301-1700

May 16, 2023

MEMORANDUM FOR PROGRAM DIRECTOR FOR AUDIT CYBERSPACE
OPERATIONS, OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Response to Department of Defense Inspector General's Draft Audit of the DoD's
Implementation and Oversight of the Controlled Unclassified Information Program
(Project No. D2022-D000CR-0177.000)

As requested, I am providing response to the subject report. While none of the recommendations are directed to the Office of the Director, Operational Test and Evaluation (DOT&E), I am providing the following response to Recommendation A.1 subsections that are most relevant to our oversight role and our mission to provide independent assessments to Congress and DoD leadership:

- **Recommendations A.1.g. and A.1.h.** Because of DOT&E's unique role, we use Security Classification Guides from throughout the DoD and have found that the application of Controlled Unclassified Information (CUI) is inconsistent. Thus, I strongly concur with Recommendations A.1.g. and A.1.h. but feel that they are underemphasized. I am concerned that if the discrepancy issues are not addressed up front, the implementation of Recommendation A.1.a. may further exacerbate the issue, as individuals will be more likely to mark unclassified documents and e-mails as CUI, even if they do not rise to that level, per applicable laws, regulations, and Government-wide policies.
- **Recommendation A.1.e.** As noted in the report, the FEDCON and FED ONLY limited dissemination controls (LDCs), which are the least restrictive of the LDCs, and the comparable distribution statements used for controlled technical information (CTI) exclude Congress. I would like Recommendation A.1.e to be expanded to remove the restriction limiting dissemination to the Executive Branch. That restriction, while not intended to deny information to Congress or other government agencies that require such information for regulatory or other official government purposes, has led to confusion and unnecessary churn within the Department.

Thank you for the opportunity to respond to the draft report.

Dr. Raymond D. O'Toole, Jr.
Principal Deputy Director

Defense Pricing and Contracting



OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

MEMORANDUM FOR PROGRAM DIRECTOR, CYBERSPACE OPERATIONS
DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Response to Department of Defense Inspector General Draft Report on Audit of the Department of Defense's Implementation and Oversight of the Controlled Unclassified Information Program (Project No. D2022-D000CR-0177.000)

As requested, I am providing responses to the general content and recommendations contained in the subject report. I have identified no specific information in the draft report that is Controlled Unclassified Information (CUI) and there is no CUI in this response.

Recommendation B.1: The Principal Director, Defense Pricing and Contracting (DPC) shall:

- a. Direct Department of Defense (DoD) contracting officers for contracts that involve controlled unclassified information to verify that contractor-developed controlled unclassified information training includes the 11 DoD learning objectives as outlined in DoD Instruction 5200.48 and that the contractors have established a process to maintain documentation of completed training for audit purposes.

Response: Concur. DPC/Defense Acquisition Regulations System (DPC/DARS) will work through the process to consider implementation through rulemaking in Title 48 of the Code of Federal Regulations (CFR).

- b. Coordinate with the Office of the Under Secretary of Defense for Intelligence and Security and the DoD Chief Information Officer to develop a Defense Federal Acquisition Regulations Supplement clause to require all DoD contractor personnel to complete the required DoD controlled unclassified information training.

Response: Concur. DPC/DARS will work through the process to consider implementation through rulemaking in Title 48 of the CFR.

Please contact [REDACTED], if additional information is required.

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.JOHN.M. TENAGLIA.JOHN
M. [REDACTED]
Date: 2023.05.19
11:54:11 -04'00'

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Defense Intelligence, Counterintelligence, Law Enforcement, and Security



INTELLIGENCE
AND SECURITY

OFFICE OF THE UNDER SECRETARY OF DEFENSE
5000 DEFENSE PENTAGON
WASHINGTON, DC 20301-5000

May 11, 2023

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Draft Report – Audit of the DoD’s Implementation and Oversight of the Controlled Unclassified Information, DoDIG Project No. D2022-D000CR-0177.000

Thank you for the opportunity to review your draft. OUSD(I&S) agrees with the recommendations and believes these will improve DoD’s CUI Program implementation. A summary of the recommendations with OUSD(I&S)’s responses are below. Additionally, taken together, these corrective actions also resolve the open Management Advisory issued by your office in September 2021, and noted in this report.

a. In coordination with the DoD Chief Information Officer and DoD Component Heads, develop and implement a DoD-wide solution for automatically populating documents and e-mails with the required markings based on a set of selection criteria.

- Concur. Automated marking tools for classified national security information already assist DoD personnel in correctly marking e-mails. Updating a commercially available or government developed tool will assist DoD personnel with CUI markings on the unclassified network and result in standard and repeatable markings reflecting DoD policy and subsequently developed training materials.

b. Revise DoD Instruction 5200.48 to require DoD Components to implement a process to track the completion of controlled unclassified information training, such as the use of a learning management system, and use that process to enforce the requirement that personnel complete the controlled unclassified information training.

- Concur. OUSD(I&S) will develop a process for tracking and enforcing CUI training completion through the Defense Security Enterprise governance process and implement this through policy revisions to DoDI 5200.48.

c. Reissue notification to all DoD Component Heads that the Center for Development of Security Excellence controlled unclassified information training, “DoD Mandatory Controlled Unclassified Information (CUI) Training,” is available on the DoD controlled unclassified information website and clarify that the training should be used for initial controlled unclassified information training and can be also used as annual refresher training.

- Concur. OUSD(I&S) will notify DoD Component Heads that the training offered by CDSE is the official, initial CUI training course and that it is also available to meet the annual refresher training requirement.

Defense Intelligence, Counterintelligence, Law Enforcement, and Security (cont'd)

d. Add a question to the controlled unclassified information questionnaire that requires DoD Components to select a sample of controlled unclassified information documents, test whether personnel are including the required markings, and report the discrepancies identified during the test.

- Concur. OUSD(I&S) will add a requirement that DoD Components select a sample of CUI documents and review those against DoD marking requirements in the next and future self-inspection reports.

e. Coordinate with the National Archives and Records Administration to clarify the intent of the “Federal employees only” and “Federal employees and contractors only” limited dissemination controls, and when they should apply.

- Concur. OUSD(I&S) will request the CUI Executive Agent clarify those dissemination controls do not prevent sharing between the three Executive Branches of government.

f. Revise DoD guidance to reflect any changes made to the use of the “Federal employees only” and “Federal employees and contractors only” limited dissemination controls.

- Concur. OUSD(I&S) will develop guidance on how to apply the FEDONLY and FEDCON limited dissemination controls.

g. Develop and implement a process to identify systemic discrepancies with the implementation of controlled unclassified information programs across the DoD Components and provide guidance to the DoD Components to address those systemic issues.

- Concur. OUSD(I&S) will develop this process through the Defense Security Enterprise governance process and implement this through policy revisions to DoDI 5200.48.

h. Require DoD Components that identify discrepancies within their controlled unclassified information program to develop and implement corrective action plans and provide updates on the actions taken to resolve the discrepancies in future years questionnaires.

- Concur. OUSD(I&S) will develop a corrective action plan development and resolution process through the Defense Security Enterprise governance process and implement this through policy revisions to DoDI 5200.48.



John P. Dixon
Acting Director for Defense Intelligence
Counterintelligence, Law Enforcement,
& Security

Missile Defense Agency



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DEPARTMENT OF DEFENSE
MISSILE DEFENSE AGENCY
5700 18TH STREET
FORT BELVOIR, VIRGINIA 22060-5573

May 19, 2023

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT
CYBERSPACE OPERATIONS AND ACQUISITION,
CONTRACTING, AND SUSTAINMENT

SUBJECT: Department of Defense Office of Inspector General Audit of Department of
Defense's Implementation and Oversight of the Controlled Unclassified Information
Program (Project Number D2022-D000CR-0177.000)

The Missile Defense Agency (MDA) has reviewed the draft report of the Audit of the
Department of Defense's Implementation and Oversight of the Controlled Unclassified
Information Program. MDA's critical comments and the requested Security Marking Review are
attached. If you have any questions, please contact my POC [REDACTED]

[REDACTED]

A handwritten signature in black ink that reads "Laura M. Desimone".

LAURA M. DESIMONE
Executive Director

Attachments:
As stated

Missile Defense Agency (cont'd)

Final
Report Reference

Page 32

Page 34

Page 35

UNCLASSIFIED

MDA COMMENTS MATRIX: DoD OIG Audit of the DoD's Implementation and Oversight of the Controlled Classified Information Program (D2022-D000CR-0177.000) – Draft Report						
1. #	2. Class	3. Component and POC Name, Phone, and E-mail	4. Page #	5. Para #	6. Comment Type	7. Comments, Justification, and Originator Justification for Resolution, and Coordinator Concurrence on Resolution
1	U	[REDACTED]	25	1	Critical	<p>Coordinator Comment: 3rd sentence. Delete “However, DoD contracting officials did not ensure that Contractor B provided CUI training that included the 11 CUI learning objectives or that Contractor C established a process to track the completion of CUI training.”</p> <p>Coordinator Justification: The Defense Counterintelligence and Security Agency (DCSA) is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2nd sentence.</p> <p>"Assesses contractor compliance with contractually established CUI system requirements in DoD classified contracts associated with the National Industrial Security Program (NISP) in accordance with Part 2003 of Title 32, CFR and National Institute of Standards and Technology Special Publication (NIST SP) 800-171 guidelines."</p>
2	U	[REDACTED]	27	2	Critical	<p>Coordinator Comment: Paragraph 2 under heading “Contracting Officials Did Not Consistently Verify Whether DoD Contractors Completed or Tracked CUI Training”. Rephrase last sentence from “...we could not review CUI training certificates for Contractor C because the contracting officer and contractor could not provide copies of the requested training certificates.”</p> <p>Coordinator Justification: As previously mentioned, DCSA is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2nd sentence.</p> <p>MDA provided copies of Contractor C’s training certification to the DoD OIG on May 4, 2023.</p>
3	U	[REDACTED]	28		Critical	<p>Coordinator Comment: Delete section heading “Contracting Officials Did Not Ensure Contractor C Tracked the Completion of CUI Training” and 3 subordinate paragraphs.</p>

MDA FORM 100 JUN 2022

PREVIOUS VERSIONS OBSOLETE
UNCLASSIFIED

ATTACHMENT 1

Missile Defense Agency (cont'd)

UNCLASSIFIED

MDA COMMENTS MATRIX: DoD OIG Audit of the DoD's Implementation and Oversight of the Controlled Classified Information Program (D2022-D000CR-0177.000) – Draft Report						
1. #	2. Class	3. Component and POC Name, Phone, and E-mail	4. Page #	5. Para #	6. Comment Type	7. Comments, Justification, and Originator Justification for Resolution, and Coordinator Concurrence on Resolution
		[REDACTED]				Coordinator Justification: As previously mentioned, DCSA is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2 nd sentence.
4	U	[REDACTED]	29		Critical	Coordinator Comment: Recommendation B.1. Change “We recommend that the Defense Pricing and Contracting Principal Director” with “We recommend that the DCSA Director....” Coordinator Justification: As previously mentioned, DCSA is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2 nd sentence.
5	U	[REDACTED]	29		Critical	Coordinator Comment: Recommendation B.1.a. Replace “Direct DoD contracting officers ...” with “Director DCSA Industrial Security Directorate....” Coordinator Justification: As previously mentioned, DCSA is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2 nd sentence.
6	U	[REDACTED]	29		Critical	Coordinator Comment: Recommendation B.2. Delete entire recommendation. Coordinator Justification: As previously mentioned, DCSA is responsible for CUI over-site of the Defense Industrial Base via the National Industrial Security Program, IAW: DoDI 5200.48, page 7, para 2.3.b; 32 CFR Part 117, Page 83301, para 1; and Under Secretary of Defense for Intelligence Memorandum, dated May 17, 2018, page 1, para 1, 2 nd sentence.
7	U	[REDACTED]	28-29		Critical	Coordinator Comment: While the statement that the contractors did receive the MDA-provided CUI refresher training is correct and the certifications cannot be provided for the contractors, MDA did provide certificates for a Contractor C-developed CUI training and the associated slides detailing that training. I do not believe it is accurate to state no evidence was

MDA FORM 100 JUN 2022

PREVIOUS VERSIONS OBSOLETE

UNCLASSIFIED

Final Report Reference

Page 37

Page 37

Page 39

Page 35-36

Missile Defense Agency (cont'd)

UNCLASSIFIED

MDA COMMENTS MATRIX: DoD OIG Audit of the DoD's Implementation and Oversight of the Controlled Classified Information Program (D2022-D000CR-0177.000) – Draft Report						
1. #	2. Class	3. Component and POC Name, Phone, and E-mail	4. Page #	5. Para #	6. Comment Type	7. Comments, Justification, and Originator Justification for Resolution, and Coordinator Concurrence on Resolution
		[REDACTED]				provided of CUI training completion by the Contractor C employees, unless the intent of the statement was to limit it to the official DoD training only.

Acronyms and Abbreviations

CASCOM	Army Combined Arms Support Command
CFR	Code of Federal Regulations
CSG-1	Carrier Strike Group One
CTI	Controlled Technical Information
CUI	Controlled Unclassified Information
DOS	Delta Operations Squadron
DFARS	Defense Federal Acquisition Regulation Supplement
DoDI	DoD Instruction
DOT&E	Director, Operational Test and Evaluation
DTRA	Defense Threat Reduction Agency
HQ	Headquarters
ISRW	Intelligence, Surveillance, and Reconnaissance Wing
LDC	Limited Dissemination Controls
MDA	Missile Defense Agency
NARA	National Archives and Records Administration
NIST	National Institute of Standards and Technology
OLDCC	Office of Local Defense Community Cooperation
OUSD(I&S)	Office of the Under Secretary of Defense for Intelligence and Security
PfM LCES	Portfolio Manager Logistics Combat Element System
SP	Special Publication
USSOCOM	U.S. Special Operations Command
USD(I&S)	Under Secretary of Defense for Intelligence and Security
USSPACECOM	U.S. Space Command



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For more information about DoD OIG reports or activities, please contact us:

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