

AN OFFERING IN THE BLUE CYBER SERIES

# DOD INSTRUCTION 5230.24 “DISTRIBUTION STATEMENTS ON DOD TECHNICAL INFORMATION” a SBIR/STTR Contractor’s User Guide



VERSION: May 2023

#41 IN THE BLUE CYBER EDUCATION SERIES





## This presentation

- This presentation is a broad overview of the revision of the DoDI 5230.24 as it applied to SBIR small business contractors.
- This presentation does not cover classified technical information.
- This presentation does not cover declassification processes
- This presentation is not a substitute for reading DoDI 5230.24



# Controlled Unclassified Information

- *Controlled Unclassified Information* (CUI) is information the Government creates or possesses, or that an entity creates or possesses **for or on behalf of the Government**, that a law, regulation, or Government-wide policy requires or permits an agency to handle using safeguarding or dissemination controls... (Title 32 definition)
  - Your small business needs to be under contract to create or possess CUI.
    - So... Your proposal is not CUI, but it may be proprietary information.
    - If you haven't signed on the dotted line – then it is not CUI
      - But it's still your data, which you want to protect!



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- The Key phrase is “that requires safeguarding or dissemination controls”. You should be able to know from the markings on documents you receive or discern yourself for documents you create, exactly which regulation calls for the “safeguarding” or “dissemination” control of that information.
- Since there are thousands of federal laws, regulations and policies – this is a very big task!
  - If you are contractor – no worries, your contract will call out if you will create CUI and how to mark it.
  - If you are a federal employee – you need to stay up on your professional reading! Consult with your MAJCOM/SYSCOM data office if you have questions about CUI.



# Categories of Controlled Unclassified Information

To understand Controlled Technical Information, you must first become familiar with Controlled Unclassified Information

- A visit to the [National Archives CUI Registry](#) or the [DoD's CUI Registry](#) will reveal to you over 100 categories of CUI
- [Executive Order 13556 "Controlled Unclassified Information"](#) , establishes a program for managing CUI across the Executive branch and designates the National Archives and Records Administration Executive Agent to implement the Order and oversee agency actions to ensure compliance.
- [32 CFR Part 2002 "Controlled Unclassified Information"](#) was issued by to establish policy for agencies on designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI, self-inspection and oversight requirements, and other facets of the Program. The rule affects Federal executive branch agencies that handle CUI and all organizations (sources) that handle, possess, use, share, or receive CUI—or which operate, use, or have access to Federal information and information systems on behalf of an agency.
- [History of CUI](#) and [FAQs](#) from the National Archives website



# Controlled Unclassified Information

- To become familiar with CUI use with in the DOD – reference the many DoD training opportunities
  - [The DoD CUI webpage](http://www.dodcui.mil) [www.dodcui.mil](http://www.dodcui.mil)
  - [The Official DoD CUI Training](https://www.cdse.edu/Training/eLearning/IF141/) <https://www.cdse.edu/Training/eLearning/IF141/>
  - [The National Archives CUI site](https://www.archives.gov/cui/training.html) <https://www.archives.gov/cui/training.html>
  - Other Blue Cyber videos and presentations on CUI
    - Can I give my Contractor CUI? You have to ask! [LINK](#)
    - Protecting Common Types of DOD CUI [LINK](#)





# Your Contract and CUI

- Every contract that **provides** or **generates** CUI will state it in the contract (reference DODI 5200.48 [Section 5.3 LINK](#))
  - You might find these statements in contract-associated documents such as the Statement of Work or Statement of Objectives.
- All contracts which **generate** CUI will also tell you how to mark that CUI.
  - Contract documents will include this information ref marking:
    - Controlled by: [Name of DoD Component determining that the information is CUI]
    - Controlled by: [Name of Office within that component making the determination]
    - CUI Category: (identify all types (categories) of CUI contained in the document)
    - Distribution/Dissemination Control:
    - POC: [Phone or email address of the originating DoD Component or authorized CUI holder]
- In the DoD, if your contract does indicate you handle or generate CUI, DFARS will further require you to implement [NIST SP 800-171](#) "Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations"
  - This is a requirement upon the signing of your contract.
    - You will also have to put a NIST SP 800-171 Self-Assessment score in the Suppliers Performance Risk System website before [you will be issued a new DoD contract. See the Blue Cyber modules such as "Following the DFARS in your Small Business Contract" and Get your "SPRS On!"](#)



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

32 / 40

100%

## 5.3. REQUIREMENTS FOR DOD CONTRACTORS.

This paragraph highlights requirements for DoD contractors.

- a. Whenever DoD provides information to contractors, it must identify whether any of the information is CUI via the contracting vehicle, in whole or part, and mark such documents, material, or media in accordance with this issuance.
- b. Whenever the DoD provides CUI to, or CUI is generated by, non-DoD entities, protective measures and dissemination controls, including those directed by relevant law, regulation, or government-wide policy, will be articulated in the contract, grant, or other legal agreement, as appropriate.
- c. DoD contracts must require contractors to monitor CUI for aggregation and compilation based on the potential to generate classified information pursuant to security classification guidance addressing the accumulation of unclassified data or information. DoD contracts shall require contractors to report the potential classification of aggregated or compiled CUI to a DoD representative.





## What is the issue if CUI is disclosed inadvertently?

In an article by John Joyce of the Defense Counterintelligence and Security Agency, DOD Unauthorized Disclosure Program Management Office (UDPMO) Chief Henry Nelson says:

- ✓ “We don’t know what the repercussions will be, but we do know that the impacts of unauthorized disclosure are extremely damaging to national security,” said Nelson in a recent interview. “DOD civilians, service members and contractors are privy to some of the most sensitive and closely held information. It is a violation of law and of the oath of office to divulge, in any fashion, non-public DOD information – classified or controlled unclassified – to anyone without the required security clearance, specific need to know and a lawful government purpose. By definition, this would be an unauthorized disclosure. Divulging information in violation of these precepts weakens the department’s ability to protect the security of the nation against its adversaries.”

Read the full article [HERE](#)



# One Category of CUI is Controlled Technical Information

Let's look carefully at the definition of Controlled Technical Information

This is **technical** information...

with **military or space application** that is...

**subject to controls** on access, use, reproduction, modification, performance, display, release, disclosure, or distribution.

It **does not include** information concerning general scientific, mathematics, or engineering principles **commonly taught** in schools, colleges, and universities or information in the **public domain**.



## Examples of CTI

Newly created, revised, or previously unmarked information, whether in tangible (e.g., technical report, model, prototype, blueprint, photograph, plan, instruction, operating manual) or intangible form (e.g., technical service or visual description), including but not limited to:

- (a) Engineering drawings.
- (b) Configuration-management documentation.
- (c) Engineering data and associated lists.
- (d) Standards.
- (e) Specifications.
- (f) Technical manuals, reports, and orders.
- (g) Blueprints, plans, and instructions.
- (h) Computer software and software documentation.
- (i) Catalog-item identifications.
- (k) Other types of technical data
- (j) Data sets, studies and analyses, and other technical information that can be used or be adapted for use to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.



## Marking CTI

- DoD-controlled unclassified technical information will include “CUI” in the banner and footer of each page and must include a distribution statement. The controlling DoD office will determine distribution availability in accordance and select the appropriate reason and audience for the content.
  - The concept of Secondary Distribution is covered in Section 4.1 of DoDI 5230.4
- The first page or cover of any document or material containing CTI will include a CUI designation indicator as described in DoDI 5200.48. Place the indicator at the bottom-right side of the first page or cover page.
- The controlling DoD office will determine distribution and select the appropriate reason and audience for the content.
- Directly beneath and separate from the CUI designation indicator box, affix the distribution statement in its entirety, including authorized audience, category, date of determination, and controlling DoD office
- See the examples on [www.dodcui.mil](http://www.dodcui.mil)



# Example of a CUI Designation Indicator and the Corresponding Distribution Statement

*DoDI 5230.24, January 10, 2023*

**Figure 1. Example CUI Designation Indicator and Distribution Statement for CTI**

**Controlled By:** OUSD(R&E)  
**Controlled By:** Defense Advanced Research Projects Agency  
**CUI Category:** CTI, Proprietary Business Information  
**Distribution Statement:** E  
**POC:** dod.component.mailbox@mail.mil

**Figure 2. Example Distribution Statement for CTI**

Distribution Statement E. Distribution authorized to DoD only; Proprietary Business Information; 18 OCT 2008. Other requests for this document must be referred to Defense Advanced Research Projects Agency, ATTN: TIO, 675 North Randolph Street Arlington, VA 22203-2114.





*DoDI 5230.24, January 10, 2023*

e. The first page or cover of any document or material containing CTI will include a CUI designation indicator as described in DoDI 5200.48. The indicator will include:

(1) Controlled By.

Insert the name of the DoD Component unless the first page or cover is on letterhead stationery.

(2) Controlled By.

Insert the name of the DoD office.

(3) CUI Category.

For DoD unclassified CTI, the overarching CUI category authorizing the use of distribution statements is "CTI."

(4) Distribution Statement.

Insert the letter (B, C, D, E, or F) designating the appropriate distribution statement, described in Paragraph 4.2.

(5) Point of Contact.

Include the controlling DoD office's telephone number and/or office mailbox address. It is good practice to ensure that the telephone number and mailbox address are valid in case of personnel turnover.



DoDI 5230.24, January 10, 2023

# Distribution Statements in DoDI 5230.24

Table 1. Distribution Statements and Their Corresponding Categories for Use

DISTRIBUTION STATEMENT A. Approved for public release: distribution is unlimited.					
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].					
DISTRIBUTION STATEMENT C. Distribution authorized to U.S. Government agencies and their contractors [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office].					
DISTRIBUTION STATEMENT D. Distribution authorized to Department of Defense and U.S. DoD contractors only [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office].					
DISTRIBUTION STATEMENT E. Distribution authorized to DoD Components only [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office].					
DISTRIBUTION STATEMENT F. Further distribution only as directed by [controlling DoD office] [date of determination] or higher DoD authority.					
REL TO. Information has been predetermined by the DoD controlling agency, in accordance with established foreign disclosure policies, to be releasable through established foreign disclosure procedures and channels, to the foreign country and international organization indicated.					
CATEGORY	A	B	C	D	E
PUBLIC RELEASE	X				
CTI		X	X	X	X
CONTRACTOR PERFORMANCE EVALUATION		X			X
CRITICAL TECHNOLOGY		X	X	X	X
DIRECT MILITARY SUPPORT					X
EXPORT CONTROLLED		X	X	X	X
FOREIGN GOVERNMENT INFORMATION		X	X	X	X
IAs		X	X	X	X
OPERATIONS SECURITY		X			X
PATENTS AND INVENTIONS		X			X
PROPRIETARY BUSINESS INFORMATION		X			X
SBIR		X			X
SOFTWARE DOCUMENTATION		X	X	X	X
TEST AND EVALUATION		X			X
VULNERABILITY INFORMATION		X	X	X	X

*DoDI 5230.24, January 10, 2023*

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DISTRIBUTION STATEMENT D. Distribution authorized to Department of Defense and U.S. DoD contractors only [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office].
DISTRIBUTION STATEMENT E. Distribution authorized to DoD Components only [category] [date of determination]. Other requests for this document must be referred to [controlling DoD office].
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CATEGORY	A	B	C	D	E
PUBLIC RELEASE	X				
CTI		X	X	X	X
CONTRACTOR PERFORMANCE EVALUATION		X			X
CRITICAL TECHNOLOGY		X	X	X	X
DIRECT MILITARY SUPPORT					X
EXPORT CONTROLLED		X	X	X	X
FOREIGN GOVERNMENT INFORMATION		X	X	X	X
IAs		X	X	X	X
OPERATIONS SECURITY		X			X
PATENTS AND INVENTIONS		X			X
PROPRIETARY BUSINESS INFORMATION		X			X
SBIR		X			X
SOFTWARE DOCUMENTATION		X	X	X	X
TEST AND EVALUATION		X			X
VULNERABILITY INFORMATION		X	X	X	X



## Distribution Statement A

- The process for Distribution A exists because your business cannot independently decide to share CTI created for a contract. **The DoD must RELEASE the CTI for public dissemination.**
- This statement may be used only on unclassified technical information that has been approved for public release by a competent authority.
  - Your COR, COTR, TPOC or Contracting Officer are familiar with your agency's Public Release process. Consult with them.
- Distribution A is not available to your CTI if your contract states that your work is classified technical information or information containing export-controlled technical information.
- **The point here is that your business cannot independently decide to share CTI created for a contract.** For example, if you want to publish your research or speak about your research at a convention. The DoD must RELEASE the CTI for public dissemination.





## Distribution Statement B

- This statement can apply to classified, CUI, and unclassified technical information.
- Distribution is authorized only to employees of U.S. Government Executive Branch departments and agencies and DoD Components.
  - For **example**:
    - You may not share it with some university who want to read about your research
    - You may not share it with another contractor who wants to partner with you
    - You may not share it with a state agency which has a grant you want, same subject



# Defense Categories / “Reason’s”

Defense categories describe the **reasons** for safeguarding or applying distribution controls to technical information. The listed defense categories override authorized reasons enacted in previous issuances but do not affect distribution statements assigned to legacy information in accordance with directives or instructions issued before the effective date of this issuance.

1. CTI.
2. Contractor Performance Evaluation.
3. Critical Technology.
4. Direct Military Support.
5. Export Controlled.
6. Foreign Government Information.
7. International Agreements
8. Operations Security.
9. Patents and Inventions.
10. Proprietary Business Information.
11. Small Business Innovation Research (SBIR).
12. Software Documentation.
13. Test and Evaluation.
14. Vulnerability Information.



# Data Rights

Data rights markings that restrict the Government's use and distribution of technical data and software are authorized on technical data and software developed exclusively or partially at private expense

- except for certain categories of data in which the U.S. Government always has unlimited rights and data developed exclusively at U.S. Government expense.
- When the U.S. Government receives less than unlimited license rights in technical data, documents, or information, the contractor must mark the information with appropriate restrictive markings. The specific format and content of these markings depends on whether the data or software are commercial or noncommercial.
- For noncommercial technical data and noncommercial computer software, the applicable regulations specify the exact wording of the authorized restrictive markings.
- Commercial technical data and commercial computer software (except any commercial data that is not developed exclusively at private expense and certain categories of data in which the U.S. Government always has unlimited rights) may be marked with any restrictive marking that the owner of the data customarily provides the general public, provided it:
  - Appropriately provides notice of the data owner's proprietary interests.
  - Clearly characterizes the U.S. Government's license rights.
  - Does not contravene Federal procurement law.



## Data Rights

- All technical information delivered to the U.S. Government that includes contractor-owned proprietary data or other third-party intellectual property will be clearly and legibly marked with the applicable data-rights markings as specified in Clause 252.227-7013, 252.227.7015, or 252.227-7018 of the DFARS
- In most cases, the reason “Proprietary Business Information” will provide a basis for Distribution Statements B, E, or F.
- When used as the reason for a limitation, note the U.S. Government’s license rights as described in parentheses
  - (e.g., “Proprietary Information (DFARS Limited Rights),” or “Proprietary Information (SBIR Rights)”).

- The controlling DoD office will determine whether the information contains export-controlled technical information. All information found to contain export-controlled technical information will be marked with the export-control warning
- All printed and electronic technical information, including technical information in a digital form, that is determined to contain export-controlled technical information, will be marked as shown

**Figure 3. Export-Control Warning**

WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Section 2751 of Title 22, United States Code) or the Export Control Reform Act of 2018 (Chapter 58 Sections 4801-4852 of Title 50, United States Code). Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25 and DoD Instruction 2040.02.





# The International Traffic in Arms Regulations (ITAR)

If your contract is covered by ITAR, your contract will contain the “DFARS 252.225-7048 Export-Controlled Items,” be sure to read paragraph (c).

- The International Traffic in Arms Regulations (ITAR), issued by the Department of State, control the export of defense-related articles and services, including technical data, ensuring compliance with the Arms Export Control Act (22 U.S.C. 2751 et seq.). The United States Munitions List (USML) identifies defense articles, services, and related technical data that are inherently military in character and could, if exported, jeopardize national security or foreign policy interests of the United States.
- (A) The ITAR is published in Title 22 of the Code of Federal Regulations (CFR), Parts 120 through 130 (22 CFR 120-130). The Department of State also maintains an on-line version at [https://www.pmddtc.state.gov/ddtc\\_public/ddtc\\_public?id=ddtc\\_kb\\_article\\_page&sys\\_id=24d528fddbfc930044f9ff621f961987](https://www.pmddtc.state.gov/ddtc_public/ddtc_public?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987).
- The Department of State is responsible for compliance with the ITAR. Your small business may contact the following Department of State office to obtain additional information: DFARS Procedures, Guidance, and Information PGI 225—Foreign Acquisition 2004 EDITION 225.79-2 U.S. Department of State Bureau of Political Military Affairs Directorate of Defense Trade Controls Office of Defense Trade Controls Compliance  
[https://www.pmddtc.state.gov/ddtc\\_public/ddtc\\_public?id=ddtc\\_public\\_portal\\_support\\_landing](https://www.pmddtc.state.gov/ddtc_public/ddtc_public?id=ddtc_public_portal_support_landing)
- The Department of State publishes guidance regarding ITAR compliance at [https://www.pmddtc.state.gov/ddtc\\_public/ddtc\\_public?id=ddtc\\_public\\_portal\\_compliance\\_landing](https://www.pmddtc.state.gov/ddtc_public/ddtc_public?id=ddtc_public_portal_compliance_landing)



# The Export Administration Regulations (EAR)

If your contract is covered by EAR your contract will contain the “DFARS 252.225-7048 Export-Controlled Items,” be sure to ready paragraph (b).

- The Export Administration Regulations (EAR), issued by the Department of Commerce, control the export of dual-use items, (items that have both commercial and military or proliferation applications) and purely commercial products or commercial services. These items include commodities, software, and technology. Many items subject to the EAR are set forth by Export Control Classification Number on the Commerce Control List.
- The EAR is published in Title 15 of the Code of Federal Regulations, Parts 730 through 774 (15 CFR Parts 730-774),
- The Commerce Control List is part of the EAR, in Supplement No. 1 to 15 CFR Part 774,
- The Department of Commerce is responsible for compliance with the EAR. Depending on the nature of questions you may have, you may contact the following Department of Commerce office to obtain additional information: U.S. Department of Commerce DFARS Procedures, Guidance, and Information PGI 225—Foreign Acquisition 2004 EDITION 225.79-3 Bureau of Industry and Security Office of Exporter Services (OExS) OExS Hotline: 202-482-4811.
- The Department of Commerce publishes guidance regarding EAR compliance at <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

Find more examples  
at [www.dodcui.cmil](http://www.dodcui.cmil)

<https://www.dodcui.mil/Portals/109/Documents/Training%20Docs/21-S-0588%20cleared%20CUI%20Awareness%20Training%20Nov%202020.pdf?ver=eOMZuMPrdLXcnhS6egUe2w%3d%3d>



## CUI Identification and Marking

### How do we mark CUI?

Mandatory markings include:

- “CUI” at the top and bottom of the page
- CUI designation indicator block

Line 1. The name of the DoD Component. If this is identified in the letterhead or other standard indicator, this line may be omitted.

Line 2. The identity of the office creating the document.

Line 3. Identification of all types of CUI contained in the document. ONLY USE THE DOD-APPROVED CATEGORY ABBREVIATIONS AND ACRONYMS. DO NOT SPELL OUT THE CATEGORY.

Line 4. The distribution statement or LDC applicable to the document

Line 5. The name and phone number or office mailbox for the originating DoD Component.

A diagram of a CUI designation indicator block, which is a rectangular box. The word "CUI" is written in the top right corner and the bottom right corner of the box. Inside the box, there are five lines of text, each preceded by a right-pointing arrow. The lines are: "Controlled by:", "Controlled by:", "CUI Category:", "Distribution Statement or LDC:", and "POC:". Arrows from the text descriptions on the left point to the corresponding lines in the box: Line 1 points to the first "Controlled by:" line, Line 2 points to the second "Controlled by:" line, Line 3 points to the "CUI Category:" line, Line 4 points to the "Distribution Statement or LDC:" line, and Line 5 points to the "POC:" line.