

INFORMATION SECURITY OVERSIGHT OFFICE

NATIONAL ARCHIVES and RECORDS ADMINISTRATION

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June 4, 2019

Joseph Kernan  
Under Secretary of Defense for Intelligence & Security  
U.S. Department of Defense  
5000 Defense Pentagon  
Washington, DC 20301-5000

Dear Mr. Kernan:

DOD's CUI Program staff recently contacted our office regarding the relationship between the terms *Unclassified* and *Uncontrolled Unclassified Information* as they are defined in 32 CFR Part 2002. 32 CFR Part 2002, effective date, November 14, 2016, implements Executive Order 13556 and establishes CUI Program requirements for safeguarding, dissemination, marking, decontrolling, and disposing of CUI.

Prior to the CUI Program, the term *Unclassified* was often used to describe information that did not meet the standards to be classified (under Executive Order 13526). In classified environments, the banner marking of "UNCLASSIFIED" was placed at the top and bottom of pages to indicate the absence of classified information in documents. In portions of documents, a "U" in parentheses indicated that a portion did not contain classified information. In the absence of Government-wide guidance regarding the handling and marking of sensitive but unclassified information, Executive branch departments and agencies started applying additional indicators to convey the status of sensitive but unclassified information in classified documents. Markings such as "U//FOUO" and "U//LES" became commonly used in commingled documents (documents that contain both sensitive but unclassified, as well as classified information).

As agencies begin implementing the CUI Program and modifying marking standards to comply with those in 32 CFR Part 2002, the use of legacy markings, such as FOUO and LES, to describe sensitive but unclassified information will be phased out. As part of this transition to the CUI Program, agencies should convey (through policy and training), among the other elements described in 32 CFR Part 2002.30 (Education and Training), that the term *Unclassified* (or *Uncontrolled Unclassified Information*, as described in 32 CFR Part 2002) refers to information that: is neither Controlled Unclassified Information nor classified, but is still subject to agency public release policies. Note: Although this information is not controlled or classified, agencies must still handle it in accordance with Federal Information Security Modernization Act (FISMA) requirements.

Banner markings, in commingled environments, to indicate the absence of Controlled Unclassified Information and classified information may appear at the top and bottom of the page. Alternatively, banner markings may also reflect the overall classified marking of the entire document. The word UNCLASSIFIED would be used to convey the status of the information appearing on that specific page of the document. In portions, a "U" in parentheses can be used to indicate the absence of Controlled Unclassified Information and classified information in that portion. Specific marking guidance is contained in the CUI Marking handbook (Version 1.1, December 2016).

Any questions may be submitted to Mark Riddle, Principal for CUI Program Oversight, at (202) 357-6864, [mark.riddle@nara.gov](mailto:mark.riddle@nara.gov).

Sincerely,

Mark A. Bradley  
Director, Information Security Oversight Office

CC: Jeffrey Spinnanger, Senior Advisor, Critical Technology Protection (CUI Program Manager)