

Feb 15, 2024

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Department of Defense
OFFICE OF PREPUBLICATION AND SECURITY REVIEW

JAN 31 2024

UNDER SECRETARY OF DEFENSE
5000 DEFENSE PENTAGON
WASHINGTON, DC 20301-5000MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
COMMANDERS OF THE COMBATANT COMMANDS
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Change to Policy on Sharing Controlled Unclassified Information with Foreign Entities

- References: (a) Executive Order 13556, "Controlled Unclassified Information," November 4, 2010
- (b) Part 2002 of Title 32, Code of Federal Regulations, "Controlled Unclassified Information (CUI)," September 14, 2016
- (c) DoD Instruction 5200.48, "Controlled Unclassified Information (CUI)," March 6, 2020

The Department of Defense (DoD) Controlled Unclassified Information (CUI) program was established in response to references (a) and (b), and implemented by reference (c), in part to "promote, to the maximum extent possible, information sharing, facilitate informed resource use, and simplify its management and implementation while maintaining required safeguarding and handling measures." To that end, DoD personnel may provide CUI to foreign entities¹ in order to conduct official business for DoD and the United States government if there is a lawful government purpose to do so, unless the CUI is expressly marked as not releasable to foreign nationals ("NOFORN") by the originator.

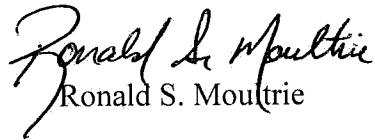
Alliances and foreign partnerships are a crucial component of the National Defense Strategy (NDS), and our success depends upon our ability to exchange information with our allies and foreign partners efficiently and in a manner consistent with applicable policies and laws. However, paragraph 3.7(b)(4) of reference (c) currently implements an unnecessary impediment to such sharing by requiring a positive foreign disclosure decision to be made by an appropriate authority before any CUI is released to a foreign entity.

In keeping with the purpose of the CUI program and the NDS, this memorandum eliminates the requirement in Paragraph 3.7(b)(4) of reference (c) that a positive foreign disclosure decision must be made before CUI is released to a foreign entity. All other requirements related to the foreign dissemination of CUI, including limits on CUI marked as not releasable to foreign nationals by the originator and the requirement for DoD Components to establish processes and procedures for approving the sharing of CUI with foreign entities, remain in effect.

¹ Reference (b) defines a foreign entity as "a foreign government, an international organization of governments or any element thereof, an international or foreign public or judicial body, or an international or foreign private or non-governmental organization."

As soon as practicable, the Defense Technical Security Administration will assess whether the security of information agreements should be updated or supplemented to reflect the safeguarding of CUI by foreign entities in a manner that is commensurate with the protections afforded by the DoD in a manner that complies with reference (b). Additional guidance regarding authorities governing various CUI categories can be found in the DoD CUI Registry at <https://www.dodcui.mil/cui-registry-new/>.

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