

Subpart EE. Designation

Section 1.0 – General Policy

- (a) Designation of information as CUI shall be limited to information which requires the protections afforded by the CUI Framework.
- (b) Agencies shall establish adequate procedures to prevent information from being improperly designated as CUI.
- (c) Agencies shall establish adequate procedures to notify agency personnel with responsibility to identify CUI when information marked as CUI has been released to the public under proper authority and therefore is ineligible for identification as CUI.
 - (1) Such procedures will apply to release decisions after the effective date of this CUI directive.
 - (2) Agencies are not required to retroactively identify information released prior to the effective date of this directive. However, agencies are expected to take reasonable precautions to prevent such information from being improperly identified as CUI.

Section 2.0 – Designation and Identification

(a) Designation

- (1) An Agency head, or a senior official appointed by the Agency head, shall designate, through specific written guidance, the types of information within the agency that may be identified as CUI and carry an authorized marking. This designation guidance shall:
 - (i) reference the statutes, regulations, directives, or other specific authorities for the designation;
 - (ii) establish criteria and rationale for identifying information as CUI;
 - (iii) provide examples of information commonly handled in the agency that, given the established criteria, may be identified as CUI;
 - (iv) distinguish and provide examples of information that is not CUI;
 - (v) indicate which of the three combinations of CUI safeguarding procedures and dissemination controls shall apply to the information; and

(vi) indicate by attribute or position which individuals are authorized to identify information as CUI, if an Agency head determines to so limit identification.

(2) Prior to issuance, Agency heads shall provide written designation guidance to the CUI Executive Agent for review. The CUI Executive Agent shall review all designation guidance for consistency across the Executive branch and will establish Government-wide criteria in order to standardize the designation of information within the CUI Framework.

(b) Identification

(1) Individuals shall identify information as CUI only according to the written designation guidance issued by the Agency head, or senior official appointed by the Agency head, or when necessary to respect the identification of information as CUI by another agency.

(2) Once an individual has identified information as CUI, the individual shall mark the material in accordance with this Directive.

(3) If the written designation guidance issued by the Agency head, or senior official appointed by the Agency head, does not address information that an individual concludes may be eligible for identification as CUI, the individual shall notify the Agency head or senior official appointed by the Agency head. The Agency head, or senior official appointed by the Agency head, shall promptly determine if the information should be identified as CUI and update the written designation guidance as necessary.

Section VV – Definitions *[add to section - still in development]*

Designation: the determination by the Agency head, or a senior official appointed by the Agency head, that particular information may be identified as CUI.

Identification: the recognition by an individual that information is CUI based on the designation guidance issued by the Agency head or a senior official appointed by the Agency head.