



# **U.S. Department of Housing and Urban Development**

## **Controlled Unclassified Information**

Final

October, 2020

*HUD Office of Administration,  
Electronic Records Management Division*

## **Background**

Controlled Unclassified Information (CUI) is information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and Governmentwide policies, as listed in the CUI Registry by the National Archives and Records Administration (NARA) but is not classified under Executive Order 13526 or the Atomic Energy Act, as amended.

Executive Order 13556, “Controlled Unclassified Information (the Order),” establishes a program for managing CUI across the Executive branch and designates the National Archives and Records Administration (NARA) as Executive Agent (EA) (CUI EA) to implement the Order and oversee agency actions to ensure compliance. The Archivist of the United States delegated these responsibilities to the Information Security Oversight Office (ISOO).

32 CFR Part 2002, “Controlled Unclassified Information” was issued by the ISOO 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.

## **Purpose**

To establish the U.S. Department of Housing and Urban Development (the Department or HUD) policy and framework for Controlled Unclassified Information.

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## **CHAPTER 1: ROLES AND RESPONSIBILITIES**

### **1.1 Roles and Responsibilities**

#### **A. The Secretary**

1. Ensures HUD senior leadership support, and makes adequate resources available to implement, manage, and comply with the CUI program as administered by the CUI EA;
2. Designates a CUI senior agency official (SAO) responsible for oversight of HUD's CUI program implementation, compliance, and management, and includes the official in agency contact listings;
3. Approves agency policies, as required, to implement the CUI program; and
4. Establishes and maintains a self-inspection program to ensure HUD compliance with the principles and requirements of the Executive Order 13556, the related regulations in 32 CFR Part 2002, this policy, and the CUI Registry.

#### **B. CUI Senior Agency Official**

1. Must be at the Senior Executive Service level or equivalent;
2. Directs and oversees HUD's CUI program; and
3. Designates a CUI program manager.

#### **C. CUI Program Manager**

1. Ensures HUD has CUI implanting policies and plans, as needed;
2. Implements an education and training program pursuant to 32 CFR 2002.30);;
3. Upon request of the CUI EA under section 5(c) of the Order, provides an update of CUI implementation efforts for subsequent reporting;
4. Submits to the CUI EA any law, regulation, or Governmentwide policy not already incorporated into the CUI Registry that HUD proposes to use to designate unclassified information for safeguarding or dissemination controls;
5. Coordinates with the CUI EA, as appropriate, any proposed law, regulation, or Governmentwide policy that would establish, eliminate, or modify a category or subcategory of CUI, or change information controls applicable to CUI;
6. Establishes processes for handling CUI Control decontrol requests submitted by authorized holders;
7. Includes a description of all existing waivers in the annual report to the CUI EA, along with the rationale for each waiver and, where applicable, the alternative steps HUD is taking to ensure sufficient protection of CUI within HUD;
8. Develops and implements HUD's self-inspection program;
9. Establishes a mechanism by which authorized holders (both inside and outside HUD) can contact a designated agency representative for instructions when they

receive unmarked or improperly marked information the agency designated as CUI;

10. Establishes a process to accept and manage challenges to CUI status (which may include improper or absent markings);
11. Establishes processes and criteria for reporting and investigating misuse of CUI; and
12. Follows the requirements for the CUI SAO listed in 32 CFR 2002.38(e) of the CUI FR regarding waivers for CUI.

## **CHAPTER 2: POLICY**

### **2.1 HUD's Policies**

HUD's CUI policy applies to all HUD employees and contractors that handle HUD's CUI under agreements and arrangements that include CUI provisions, but are not limited to:

1. Contracts
2. Grants
3. Cooperative agreements
4. Licenses
5. Certificates
6. Memoranda of agreement
7. Memoranda of arrangement
8. Memoranda of understanding
9. Information Sharing agreements or arrangements

This policy establishes HUD's CUI program, and when published, will establish HUD policy for the handling, marking, protecting, sharing, destroying, and decontrolling of CUI in accordance with the amended 32 CFR Part§ 2002.

Regarding the Government National Mortgage Association (GNMA, or Ginnie Mae), HUD notes that, for CUI policy purposes, it may be regarded as an agency in its own right (in accordance with 32 CFR § 2002.4(a), 5 U.S.C. § 105, and 12 U.S.C. § 302(a)(2)(A)), with the authority to develop and abide by its own CUI Policy in accordance with Executive Order 13556 and 32 CFR Part 2002. Accordingly, this HUD CUI Policy does not cover Ginnie Mae; HUD will assist Ginnie Mae in developing its own CUI policy.

This policy is consistent with the HUD IT Security Policy and the GSA HUD Privacy Act Program. Any perceived conflicts with these policies should be addressed to the CUI Program Manager, who will coordinate with the HUD Chief Information Officer (CIO) to resolve any conflicts.

## **CHAPTER 3: ELEMENTS OF HUD'S CUI PROGRAM**

### **3.1 The CUI Registry**

The CUI EA maintains the CUI Registry, which is the authoritative central repository for all guidance, policy, instructions, and information on CUI (other than the Order). It is publicly accessible and includes authorized CUI categories and subcategories, associated markings, applicable decontrolling procedures, and other guidance and policy information; and includes citation(s) to laws, regulations, or Governmentwide policies that form the basis for each category and subcategory.

### **3.2 CUI Categories and Subcategories**

CUI categories and subcategories are the exclusive designations for identifying unclassified information that a law, regulation, or Governmentwide policy requires or permits agencies to handle by means of safeguarding or dissemination controls. All unclassified information throughout the executive branch that requires any kind of safeguarding or dissemination control is CUI. Agencies, such as HUD, may not implement safeguarding or dissemination controls for any unclassified information other than those controls permitted by the CUI program. HUD may use only those categories or subcategories approved by the CUI EA and published in the CUI Registry to designate information as CUI.

### **3.3 Safeguarding**

#### **A. General safeguarding policy**

1. Pursuant to the Order and in consultation with other agencies, the CUI EA issues safeguarding standards and, as necessary, in the CUI Registry, and updates them as needed. These standards require agencies, such as HUD, to safeguard CUI at all times in a manner that minimizes the risk of unauthorized disclosure while allowing timely access by authorized holders.
2. Safeguarding measures that HUD is authorized or accredited to use for classified information and national security systems are also sufficient for safeguarding CUI in accordance with HUD's management and acceptance of risk.
3. HUD may increase CUI Basic's confidentiality impact level above moderate only internally, or by means of agreements with other agencies or non-executive branch entities (including agreements for the operation of an information system on behalf of HUD).
4. HUD may not require controls for CUI Basic at a level higher than permitted in the CUI Basic requirements when disseminating the CUI Basic outside of HUD.
5. Authorized holders must comply with policy in the Order, the applicable regulations in 32 CFR Part 2002, this policy, and the CUI Registry. The authorized holder must review any applicable agency CUI policies for additional instructions. For information designated as CUI Specified, authorized holders

must also follow the procedures in the underlying laws, regulations, or Governmentwide policies.

#### B. CUI safeguarding standards

Authorized holders must safeguard CUI using one of the following types of standards:

- a. CUI Basic. This is the default set of standards authorized holders must apply to all CUI unless the CUI Registry states that it is CUI Specified.
- b. CUI Specified. Authorized holders safeguard CUI Specified in accordance with the requirements of the underlying authorities indicated in the CUI Registry.

#### C. Protecting CUI under the control of an authorized holder

Authorized holders must take reasonable precautions to guard against unauthorized disclosure of CUI. They must include the following measures among the reasonable precautions:

- a. Establish controlled environments in which to protect CUI from unauthorized access or disclosure and make use of those controlled environments;
- b. Reasonably ensure that unauthorized individuals cannot access or observe CUI, or overhear conversations discussing CUI;
- c. Keep CUI under the authorized holder's direct control or protect it with at least one physical barrier, and reasonably ensure that the authorized holder or the physical barrier protects the CUI from unauthorized access or observation when outside a controlled environment; and
- d. Protect the confidentiality of CUI that HUD or authorized holders process, store, or transmit on Federal information systems in accordance with the applicable security requirements and controls established in Federal Information Processing Standards (FIPS) Publication (PUB) 199, Standards for Security Categorization of Federal Information and Information Systems,<sup>1</sup> FIPS PUB 200, Minimum Security Requirements for Federal Information and Information Systems,<sup>2</sup> and National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, Security and Privacy Controls for Federal Information Systems and Organizations<sup>3</sup>.

#### D. Protecting CUI when shipping or mailing

When sending CUI, authorized holders:

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<sup>1</sup> <https://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.199.pdf>.

<sup>2</sup> <https://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.200.pdf>

<sup>3</sup> <https://csrc.nist.gov/publications/detail/sp/800-53/rev-4/final>.

- a. May use the United States Postal Service or any commercial delivery service when they need to transport or deliver CUI to another entity;
- b. Should use in-transit automated tracking and accountability;
- c. May use interoffice or interagency mail systems to transport CUI; and
- d. Must mark packages that contain CUI according to marking requirements contained in this policy and in guidance published by the CUI EA.

#### E. Reproducing CUI

##### 1. Authorized holders:

- a. May reproduce (e.g., copy, scan, print, electronically duplicate) CUI in pursuit of a lawful Government purpose; and
- b. Must ensure, when reproducing CUI documents on equipment, such as printers, copiers, scanners, or fax machines, that the equipment does not retain data, or HUD must otherwise sanitize it in accordance with NIST SP 800–53 (see 32 CFR 2002.2).

#### F. Destroying CUI

##### 1. Authorized holders may destroy CUI when:

- a. HUD no longer needs the information; and
  - b. Records disposition schedules published or approved by NARA allow.
2. When destroying CUI, including in electronic form, HUD must do so in a manner that makes it unreadable, indecipherable, and irrecoverable.
  3. HUD must use any destruction method specifically required by law, regulation, or Governmentwide policy for that CUI.
  4. If the authority does not specify a destruction method, HUD must use one of the following methods:
    - a. Guidance for destruction in NIST SP 800–53, and NIST SP 800-88, Guidelines for Media Sanitization.<sup>4</sup>
    - b. Any method of destruction approved for Classified National Security Information, as delineated in 32 CFR 2001.47, Destruction, or any implementing or successor guidance.

#### G. Information systems that process, store, or transmit CUI

1. In accordance with FIPS PUB 199, (incorporated by reference, see 32 CFR 2002.2), CUI Basic is categorized at no less than the moderate confidentiality impact level.

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<sup>4</sup> <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.

2. FIPS PUB 199 defines the security impact levels for Federal information and Federal information systems.
3. The Department must also apply the appropriate security requirements and controls from FIPS PUB 200 and NIST SP 800-53 (see 32 CFR 2002.2) to CUI in accordance with any risk-based tailoring decisions made.
4. HUD may increase the CUI Basic confidentiality impact level above moderate only internally, or by means of agreements with other agencies or non-executive branch entities (including agreements for the operation of an information system on behalf of HUD).
5. HUD may not otherwise require controls for CUI Basic at a level higher or different from those permitted in the CUI Basic requirements when disseminating the CUI Basic outside of HUD.
6. Information systems that process, store, or transmit CUI are of two different types:
  - a. A Federal information system
    - (1) Is an information system used or operated by HUD or by a contractor of an agency or other organization on behalf of HUD.
    - (2) An information system operated on behalf of HUD that provides information processing services to HUD that the Government might otherwise perform itself but has decided to outsource.
    - (3) This includes systems operated exclusively for Government use and systems operated for multiple users (multiple Federal agencies or Government and private sector users).
    - (4) Information systems that a non-executive branch entity operates on behalf of HUD are subject to the requirements of this policy as though they are HUD's systems.
    - (5) HUD may require these systems to meet additional requirements HUD sets for its own internal systems.
  - b. A non-Federal information system
    - (1) Is any information system that does not meet the criteria for a Federal information system.
    - (2) HUD may not treat non-Federal information systems as though they are HUD systems, so HUD cannot require that non-executive branch entities protect these systems in the same manner that HUD might protect its own information systems.
    - (3) When a non-executive branch entity receives Federal information only incidental to providing a service or product to the Government other than processing services, its information systems are not considered Federal information systems.

- (4) NIST SP 800–171, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations<sup>5</sup>(incorporated by reference, see 32 CFR 2002.2) defines the requirements necessary to protect CUI Basic on non-Federal information systems.
- (5) HUD must use NIST SP 800–171 when establishing security requirements to protect CUI’s confidentiality on non-Federal information systems unless the authorizing law, regulation, or Governmentwide policy listed in the CUI Registry for the CUI category or subcategory of the information involved prescribes specific safeguarding requirements for protecting the information’s confidentiality, or unless an agreement establishes requirements to protect CUI Basic at higher than moderate confidentiality.

### 3.4 Accessing and disseminating

#### A. General policy access

HUD should disseminate and permit access to CUI, provided such access or dissemination:

- (1) Abides by the laws, regulations, or Governmentwide policies that established the CUI category or subcategory;
- (2) Furthers a lawful Government purpose;
- (3) Is not restricted by an authorized limited dissemination control established by the CUI EA; and
- (4) Is not otherwise prohibited by law.

#### B. Dissemination controls

- (1) HUD must impose dissemination controls accordingly and should do so only to apply necessary restrictions on access to CUI, including those required by law, regulation, or Governmentwide policy.
- (2) HUD may not impose controls that unlawfully or improperly restrict access to CUI.

#### C. Marking

Prior to disseminating CUI, authorized holders must include any specific markings required by law, regulation, or Governmentwide policy.

#### D. Reasonable expectation

- (1) To disseminate CUI to a non-executive branch entity, authorized holders must reasonably expect that all intended recipients are

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<sup>5</sup> <https://csrc.nist.gov/publications/detail/sp/800-171/rev-2/final>.

- (2) authorized to receive the CUI and have a basic understanding of how to handle it.

## E. Agreements

### 1. Information-sharing agreements.

When HUD intends to share CUI with a non-executive branch entity, HUD should enter into a formal agreement (see 32 CFR 2004.4(c)), whenever feasible. Such an agreement may take any form the Secretary approves, but when established, it must include a requirement to comply with Executive Order 13556 and the CUI Registry.

### 2. Sharing CUI without a formal agreement.

When HUD cannot enter into agreements, but HUD's mission requires it to disseminate CUI to non-executive branch individuals, HUD must communicate to the recipient that the Government strongly encourages the non-executive branch individuals to protect CUI in accordance with the Order, the CUI Registry, and that such protections should accompany the CUI if the individuals disseminate it further.

### 3. Foreign materials sharing

#### a. When entering into agreements or arrangements with a foreign body:

- (1) The Department should encourage that body to protect CUI in accordance with the Order, and the CUI Registry to the extent possible, but
- (2) HUD may use its judgment as to what and how much to communicate, keeping in mind the ultimate goal of safeguarding CUI.

b. If such agreements or arrangements include safeguarding or dissemination controls on unclassified information, HUD must not establish parallel protection rules to the CUI program: For example,

- (1) HUD must use CUI markings rather than alternative ones for safeguarding or dissemination controls on CUI received from or sent to foreign individuals ; and

(2) such foreign individuals must abide by any requirements set by the CUI category or subcategory's governing laws, regulations, or Governmentwide policies, etc.

4. Pre-existing agreements

(1) For any entered into information sharing agreement entered into prior to November 14, 2016, HUD should modify any terms in that agreement that conflict with the requirements in the Order and the CUI Registry, when feasible.

5. Agreement content

a. At a minimum, agreements with non-executive branch entities must include provisions that state:

(1) Non-executive branch personnel entities must handle CUI in accordance with the Order, the regulations in 32 CFR Part 2002, this policy, and the CUI Registry;

(2) Misuse of CUI is subject to penalties established in applicable laws, regulations, or Governmentwide policies; and

b. The non-executive branch personnel must report any non-compliance with handling requirements to HUD using methods approved by HUD's SAO.

c. When HUD is not the agency that designated or approved the designation of a specific item of information as CUI (i.e., the designating agency), the agency that disseminated the item (i.e., the disseminating agency) to HUD must notify HUD of any non-compliance with handling requirements.

F. Exceptions to agreements

HUD need not enter a written agreement when they it shares CUI with the following bodies:

1. Congress, including any committee, subcommittee, joint committee, joint subcommittee, or office thereof;
2. A court of competent jurisdiction, or any individual or entity when directed by an order of a court of competent jurisdiction or a Federal administrative law judge (ALJ) appointed under 5 U.S.C. 3501;
3. The Comptroller General, in the course of performing duties of the Government Accountability Office; or
4. Individuals or entities, when HUD releases information to them pursuant to a Freedom of Information Act (FOIA) or Privacy Act request.

G. Controls on accessing and disseminating CUI Basic.

Authorized holders should disseminate and encourage access to CUI Basic for any recipient when the access meets the requirements set out in paragraph (a)(i)A. of this section.

#### H. CUI Specified.

- (1) Authorized holders disseminate and allow access to CUI Specified as required or permitted by the authorizing laws, regulations, or Governmentwide policies that established that CUI Specified.
- (2) The CUI Registry defines CUI that requires or permits Specified controls based on law, regulation, and Governmentwide policy.
- (3) In the absence of specific dissemination restrictions in the authorizing law, regulation, or Governmentwide policy, HUD may disseminate CUI Specified as it would CUI Basic.

1.

#### I. Receipt of CUI.

Non-executive branch individuals may receive CUI directly from members of the executive branch or as sub-recipients from other non-executive branch personnel.

#### J. Limited dissemination

- (1) HUD may place additional limits on disseminating CUI only through use of the limited dissemination controls approved by the CUI EA and published in the CUI Registry. These limited dissemination controls are separate from any controls that a CUI Specified authority requires or permits.
- (2) Using limited dissemination controls to unnecessarily restrict access to CUI is contrary to the goals of the CUI program. HUD may therefore use these controls only when it furthers a lawful Government purpose, law, regulation, or Governmentwide policies require or permit HUD to do so.
- (3) If an authorized holder has significant doubt about whether it is appropriate to use a limited dissemination control, the authorized holder should consult with and follow the designating agency's policy. If, after consulting the policy, significant doubt still remains, the authorized holder should not apply the limited dissemination control.
- (4) Only the designating agency may apply limited dissemination controls to CUI.
- (5) Other individuals entities that receive CUI and seek to apply additional controls must request permission to do so from the designating agency.
- (6) Authorized holders may apply limited dissemination controls to any CUI for which they are required or permitted to restrict access by or to certain entities.
- (7) Designating individuals entities may combine approved limited dissemination controls listed in the CUI Registry to accommodate necessary practices.

## K. Methods of disseminating CUI

- (1) Before disseminating CUI, authorized holders must reasonably expect that all intended recipients have a lawful Government purpose to receive the CUI.
- (2) Authorized holders may then disseminate the CUI by any method that meets the safeguarding requirements of this policy and the CUI Registry and ensures receipt in a timely manner, unless the laws, regulations, or Governmentwide policies that govern that CUI require otherwise.
- (3) To disseminate CUI using systems or components that are subject to NIST guidelines and publications (e.g., email applications, text messaging, facsimile, or voicemail), HUD must do so in accordance with the no less than-moderate confidentiality impact value set out in FIPS PUB 199, FIPS PUB 200, NIST SP 800–53 (incorporated by reference, see 32 CFR 2002.2).

## 3.5 Decontrolling

HUD should decontrol as soon as practicable any CUI designated by HUD that no longer requires safeguarding or dissemination controls, unless doing so conflicts with the governing law, regulation, or Governmentwide policy.

- A. HUD may decontrol CUI automatically upon the occurrence of one of the conditions below, or through an affirmative decision by the designating agency:
  1. When laws, regulations, or Governmentwide policies no longer require its control as CUI and the authorized holder has the appropriate authority under the authorizing law, regulation, or Governmentwide policy;
  2. When the designating agency decides to release it to the public by making an affirmative, proactive disclosure;
  3. When HUD discloses it in accordance with an applicable information access statute, such as the FOIA or the Privacy Act (when legally permissible), if HUD incorporates such disclosures into its public release processes; or
  4. When a pre-determined event or date occurs, as described in 32 CFR 2002.20(g),
  5. unless law, regulation, or Governmentwide policy requires coordination first.
- B. HUD may also decontrol CUI:
  1. In response to a request by an authorized holder to decontrol it; or
  2. Concurrently with any declassification action under Executive Order 13526 or
  3. Any predecessor or successor order, as long as the information also appropriately qualifies for decontrol as CUI.
- C. HUD may designate in its CUI policies which HUD personnel it authorizes to decontrol CUI, consistent with law, regulation, and Governmentwide policy.

- D. Decontrolling CUI relieves authorized holders from requirements to handle the information under the CUI program, but does not constitute authorization for public release.
- E. Authorized holders must clearly indicate that CUI is no longer controlled when restating, paraphrasing, re-using, releasing to the public, or donating it to a private institution. Otherwise, authorized holders do not have to mark, review, or take other actions to indicate the CUI is no longer controlled.
  - 1. HUD policy may allow authorized holders to remove or strike through only those CUI markings on the first or cover page of the decontrolled CUI and markings on the first page of any attachments that contain CUI.
  - 2. If an authorized holder uses the decontrolled CUI in a newly created document, the authorized holder must remove all CUI markings for the decontrolled information.
- F. Once decontrolled, any public release of information that was formerly CUI must be in accordance with applicable law and HUD's policies on the public release of information.
- G. Authorized holders may request that the designating agency decontrol certain CUI.
- H. If an authorized holder publicly releases CUI in accordance with the designating agency's authorized procedures, the release constitutes decontrol of the information.
- I. Unauthorized disclosure of CUI does not constitute decontrol.

HUD must not decontrol CUI in an attempt to conceal, or to otherwise circumvent accountability for, an identified unauthorized disclosure.
- J. When laws, regulations, or Governmentwide policies require specific decontrol procedures, authorized holders must follow such requirements.
- K. The Archivist of the United States may decontrol records transferred to the National Archives in accordance with 32 CFR § 2002.34, absent a specific agreement otherwise with the designating agency.
- L. The Archivist decontrols records to facilitate public access pursuant to 44 U.S.C. 2108 and NARA's regulations at 36 CFR parts 1235, 1250, and 1256.

### **3.6 Marking**

- A. General marking policy

1. CUI markings listed in the CUI Registry are the only markings authorized to designate unclassified information requiring safeguarding or dissemination controls.
  2. HUD and authorized holders must, in accordance with the implementation timelines established for HUD by the CUI EA:
    - a. Discontinue all use of legacy or other markings not permitted by this policy or included in the CUI Registry; and
    - b. Uniformly and conspicuously apply CUI markings to all CUI exclusively in accordance with this policy and
    - c. the CUI Registry unless this policy or the CUI EA otherwise specifically permits.
- B. HUD may not modify CUI program markings or deviate from the method of use prescribed by the CUI EA and the CUI Registry in an effort to accommodate existing HUD marking practices, except in circumstances approved by the CUI EA.
- C. The CUI program prohibits using markings or practices not included in this policy or the CUI Registry. If legacy markings remain on information, the legacy markings are void and no longer indicate that the information is protected or that it is or qualifies as CUI.
- D. If HUD receives an incorrectly marked document, the authorized holder should notify either the disseminating body or the designating agency and request a properly marked document.
- E. The designating agency determines that the information qualifies for CUI status and applies the appropriate CUI marking when it designates that information as CUI.
- F. If HUD has information within its control that qualifies as CUI but has not been previously marked as CUI for any reason, HUD must mark it as CUI prior to disseminating it.
- G. HUD must not mark information as CUI to conceal illegality, negligence, ineptitude, or other disreputable circumstances embarrassing to any person, any agency, the Federal Government, or any of their partners, or for any purpose other than to adhere to the law, regulation, or Governmentwide policy authorizing the control.
- H. The lack of a CUI marking on information that qualifies as CUI does not exempt the authorized holder from abiding by applicable handling requirements as described in the Order, this policy, and the CUI Registry.

When it is impractical for HUD to individually mark CUI due to quantity or nature of the information, or when HUD has issued a limited CUI marking waiver, authorized holders must make recipients aware of the information's CUI status using an alternate marking method that is readily apparent, or signs in storage areas or on containers.

### 3.7 Banner Marking

#### A. The CUI banner marking

Designators of CUI must mark all CUI with a CUI banner marking, which may include up to three elements:

1. The CUI control marking (mandatory)
2. The CUI control marking abbreviation “CUI.”
3. The CUI Registry contains additional, specific guidance and instructions for using the CUI control marking.
4. Authorized holders who designate CUI may not use alternative markings to identify or mark items as CUI.

#### B. CUI category or subcategory markings (mandatory for CUI Specified).

1. The CUI Registry lists the category and subcategory markings, which align with the CUI’s governing category or subcategory.
2. Although the CUI program does not require HUD to use category or subcategory markings on CUI Basic, HUD’s CUI SAO may establish HUD policy that mandates use of CUI category or subcategory markings on CUI Basic.
3. However, authorized holders must include in the CUI banner marking all CUI Specified category or subcategory markings that pertain to the information in the document.
4. If law, regulation, or Governmentwide policy requires specific marking, disseminating, informing, distribution limitation, or warning statements, HUD must use those indicators as those authorities require or permit.
5. However, HUD must not include these additional indicators in the CUI banner marking or CUI portion markings.
6. The CUI Registry contains additional, specific guidance and instructions for using CUI category and subcategory markings.

#### C. Limited dissemination control markings

1. CUI limited dissemination control markings align with limited dissemination controls established by the CUI EA under 32 CFR 2002.16 (b)(4).
2. HUD policy should include specific criteria establishing which authorized holders may apply limited dissemination controls and their corresponding markings, and when.
3. The CUI Registry contains additional, specific guidance and instructions for using limited dissemination control markings.

#### D. Using the CUI banner marking

1. The content of the CUI banner marking must apply to the whole document (i.e., inclusive of all CUI within the document) and must be the same on each page of the document that includes CUI.
2. The CUI Registry contains additional, specific guidelines and instructions for using the CUI banner marking.

#### E. CUI designation indicator (mandatory)

1. All documents containing CUI must carry an indicator of who designated the CUI within it.
2. This must include the designator's agency (at a minimum) and may take any form that identifies the designating agency, including letterhead or other standard agency indicators or adding a "Controlled by" line (for example, "Controlled by: Office of Housing, Housing Operations.').
3. The designation indicator must be readily apparent to authorized holders and may appear only on the first page or cover.
4. The CUI Registry contains additional, specific guidance and requirements for using CUI designation indicators.

#### F. CUI decontrolling indicators

1. Where feasible, HUD must include a specific decontrolling date or event with all CUI.
2. HUD may do so in any manner that makes the decontrolling schedule readily apparent to an authorized holder.
3. Authorized holders may consider specific items of CUI as decontrolled as of the date indicated, requiring no further review by, or communication with, the designator.
4. If using a specific event after which the CUI is considered decontrolled:
  - a. The event must be foreseeable and verifiable by any authorized holder (e.g., not based on or requiring special access or knowledge); and
  - b. The designator should include point of contact and preferred method of contact information in the decontrol indicator when using this method, to allow authorized holders to verify that a specified event has occurred.
5. The CUI Registry contains additional, specific guidance and instructions for using limited dissemination control markings.

#### G. Portion marking CUI.

1. HUD is encouraged to portion mark all CUI, to facilitate information sharing and proper handling.
2. Authorized holders who designate CUI may mark CUI only with portion markings approved by the CUI EA and listed in the CUI Registry.
3. CUI portion markings consist of the following elements:

- a. The CUI control marking, which must be the acronym “CUI”;
  - b. CUI category/subcategory portion markings (if required or permitted); and
  - c. CUI limited dissemination control portion markings (if required).
4. When using portion markings:
- a. CUI category and subcategory portion markings are optional for CUI Basic.
  - b. HUD may manage their use by means of HUD’s policy.
  - c. Authorized holders permitted to designate CUI must portion mark both CUI and uncontrolled unclassified portions.
5. In cases where portions consist of several segments, such as paragraphs, sub-paragraphs, bullets, and sub-bullets, and the control level is the same throughout, designators of CUI may place a single portion marking at the beginning of the primary paragraph or bullet.
6. However, if the portion includes different CUI categories or subcategories, or if the portion includes some CUI and some uncontrolled unclassified information, authorized holders should portion mark all segments separately to avoid improper control of any one segment.
7. Each portion must reflect the control level of only that individual portion. If the information contained in a sub-paragraph or sub-bullet is a different CUI category or subcategory from its parent paragraph or parent bullet, this does not make the parent paragraph or parent bullet controlled at that same level.
8. The CUI Registry contains additional, specific guidance and instructions for using CUI portion markings and uncontrolled unclassified portion markings.

#### H. Commingling CUI markings with Classified National Security Information (CNSI)

1. When authorized holders include CUI in documents that also contain CNSI, the decontrolling provisions of the Order and this policy apply only to portions marked as CUI. In addition, authorized holders must:
- a. Portion mark all CUI to ensure that authorized holders can distinguish CUI portions from portions containing classified and uncontrolled unclassified information;
  - b. Include the CUI control marking, CUI Specified category and subcategory markings, and limited dissemination control markings in an overall banner marking; and
  - c. Follow the requirements of the Order and this policy, and instructions in the CUI Registry on marking CUI when commingled with CNSI.

~~I. Commingling restricted data (RD) and formerly restricted data (FRD) with CUI~~

- ~~1. To the extent possible, avoid commingling RD or FRD with CUI in the same document.~~
- ~~2. When it is not practicable to avoid such commingling, follow the marking requirements in the Order and instructions in the CUI Registry, as well as the marking requirements in 10 CFR Part 1045, Nuclear Classification and Declassification.~~
- ~~3. Follow the requirements of 10 CFR Part 1045 when extracting a RD or FRD portion for use in a new document.~~
- ~~4. Follow the requirements of the Order, and instructions in the CUI Registry if extracting a CUI portion for use in a new document.~~
- ~~5. The lack of declassification instructions for RD or FRD portions does not eliminate the requirement to process commingled documents for declassification in accordance with the Atomic Energy Act, or 10 CFR Part 1045.~~

J. Packages and parcels containing CUI.

1. Address packages that contain CUI for delivery only to a specific recipient.
2. Do not put CUI markings on the outside of an envelope or package, or otherwise indicate on the outside that the item contains CUI.

K. Transmittal document marking requirements.

1. When a transmittal document accompanies CUI, the transmittal document must include a CUI marking on its face ( “CUI”), indicating that CUI is attached or enclosed.
2. The transmittal document must also include noticeably on its face the following or similar instructions, as appropriate:
  - a. “When enclosure is removed, this document is Uncontrolled Unclassified
  - b. Information”; or “When enclosure is removed, this document is (control level); upon removal, this document does not contain CUI.”

L. Working papers

1. Mark working papers containing CUI the same way as the finished product containing CUI would be marked and as required for any CUI contained within them.
2. Handle them in accordance with this policy and the CUI Registry.

M. Using supplemental administrative markings with CUI.

1. The Secretary may authorize the use of supplemental administrative markings (e.g., “Pre-decisional,” “Deliberative,” “Draft”) for use with CUI.
2. The Secretary may not authorize the use of supplemental administrative markings to establish safeguarding requirements or disseminating restrictions, or to designate the information as CUI.
3. However, HUD may use these markings to inform recipients of the non-final status of documents under development to avoid confusion and maintain the integrity of HUD’s decision-making process in accordance with 32 CFR 2002.20(1)(3).
4. Authorized holders must not incorporate or include supplemental administrative markings in the CUI marking scheme detailed in this policy and the CUI Registry.
5. Supplemental administrative markings must not duplicate any CUI marking described in this policy or the CUI Registry.

#### N. Unmarked CUI

Treat unmarked information that qualifies as CUI as described in the Order, 32 CFR 2002.8(c), and the CUI Registry.

### **3.8 Limitations on applicability of agency CUI policies**

- A. HUD CUI policies do not apply to entities outside HUD unless a law, regulation, or Governmentwide policy requires or permits the controls contained in HUD policy to do so, and the CUI Registry lists that law, regulation, or Governmentwide policy as a CUI authority.
- B. HUD may not include additional requirements or restrictions on handling CUI other than those permitted in the Order, this policy, or the CUI Registry when entering into agreements.

### **3.9 HUD’s self-inspection program**

- A. HUD must establish a self-inspection program pursuant to the requirement in 32 CFR 2002.8(b)(4).
- B. The self-inspection program must include:
  1. At least annual review and assessment of HUD’s CUI program.
  2. The Secretary or CUI SAO should determine any greater frequency based on program needs and the degree to which HUD engages in designating CUI;
  3. Self-inspection methods, reviews, and assessments that serve to evaluate program effectiveness, measure the level of compliance, and monitor the progress of CUI implementation;
  4. Formats for documenting self-inspections and recording findings when not prescribed by the CUI EA;
  5. Procedures by which to integrate lessons learned and best practices arising from reviews and assessments into operational policies, procedures, and training;
  6. A process for resolving deficiencies and taking corrective actions; and

7. Analysis and conclusions from the self-inspection program, documented on an annual basis and as requested by the CUI EA.

## **CHAPTER 4: CUI PROGRAM MANAGEMENT**

### **4.1 Education and Training**

- A. The CUI SAO must establish and implement HUD's training policy. At a minimum, the training policy must address the means, methods, and frequency of HUD CUI training.
- B. HUD training policy must ensure that personnel who have access to CUI receive training on designating CUI, relevant CUI categories and subcategories, the CUI Registry, associated markings, and applicable safeguarding, disseminating, and decontrolling policies and procedures.
- C. HUD must train employees on these matters when the employees first begin working for HUD and at least once every year thereafter.
- D. The CUI EA reviews HUD's training materials to ensure consistency and compliance with the Order and the CUI Registry.

### **4.2 CUI cover sheets**

- A. HUD may use cover sheets for CUI. If HUD chooses to use cover sheets, it must use CUI EA-approved cover sheets, which can be found on the CUI Registry.
- B. HUD may use cover sheets to identify CUI, alert observers that CUI is present from a distance, and serve as a shield to protect the attached CUI from inadvertent disclosure.

### **4.3 Transferring records**

- A. When feasible, HUD must decontrol records containing CUI prior to transferring them to NARA.
- B. When HUD cannot decontrol records before transferring them to NARA, HUD must:
  - 1. Indicate on a Transfer Request (TR) in NARA's Electronic Records Archives (ERA) or on an SF-258 paper transfer form, that the records should continue to be controlled as CUI (subject to NARA's regulations on transfer, public availability, and access; see 36 CFR parts 1235, 1250, and 1256); and
  - 2. For hard copy transfer, not place a CUI marking on the outside of the container.
  - 3. If HUD does not indicate the status as CUI on the TR or SF-258, NARA may assume that HUD decontrolled the information prior to transfer, regardless of any CUI markings on the actual records.

### **4.4 Legacy materials**

- A. HUD must review documents created prior to November 14, 2016, and re-mark any that contain information that qualifies as CUI in accordance with the Order, this policy, and the CUI Registry. When HUD does not individually re-mark legacy material that

qualifies as CUI, HUD must use an alternate permitted marking method (see 32 CFR 2002.20(a)(8)).

- B. When the CUI SAO deems remarking legacy documents to be excessively burdensome, the CUI SAO may grant a legacy material marking waiver under 32 CFR § 2002.38(b).

When HUD re-uses any information from legacy documents that qualifies as CUI, whether the documents have obsolete control markings or not, HUD must designate the newly-created document (or other reuse) as CUI and mark it accordingly.

#### **4.5 Waivers of CUI requirements**

##### **A. Limited CUI marking waivers within HUD**

- 1. When HUD designates information as CUI but determines that marking it as CUI is excessively burdensome, HUD's CUI SAO may approve waivers of all or some of the CUI marking requirements while that CUI remains within HUD's control.

##### **B. Limited legacy material marking waivers within HUD**

- 1. In situations in which HUD has a substantial amount of stored information with legacy markings, and removing legacy markings and designating or remarking it as CUI would be excessively burdensome, HUD's CUI SAO may approve a waiver of these requirements for some or all of that information while it remains under HUD's control.
- 2. When an authorized holder re-uses any legacy information or information derived from legacy documents that qualifies as CUI, they must remove or redact legacy markings and designate or re-mark the information as CUI, even if the information is under a legacy material marking waiver prior to re-use.

##### **C. Exigent circumstances waivers**

- 1. In exigent circumstances, the Secretary or the CUI SAO may waive the provisions and requirements established in this policy or the CUI Registry for any CUI while it is within HUD's possession or control, unless specifically prohibited by applicable laws, regulations, or Governmentwide policies.
- 2. Exigent circumstances waivers may apply when HUD shares the information with other agencies or non-Federal personnel.
- 3. In such cases, the authorized holders must make recipients aware of the CUI status of any disseminated information.

##### **D. For all waivers:**

- 1. The CUI SAO must still ensure that the agency appropriately safeguards and disseminates the CUI. See 32 CFR 2002.20(a)(7);

2. The CUI SAO must detail in each waiver the alternate protection methods HUD will employ to ensure protection of CUI subject to the waiver;
3. All marking waivers apply to CUI subject to the waiver only while HUD continues to possess that CUI. No marking waiver may accompany CUI when an authorized holder disseminates it outside of HUD;
4. Authorized holders must uniformly and noticeably apply CUI markings to all CUI prior to disseminating it outside HUD unless otherwise specifically permitted by the CUI EA; and
5. When the circumstances requiring the waiver end, the CUI SAO must reinstitute the requirements for all CUI subject to the waiver without delay.
6. The CUI SAO must:
  - a. Retain a record of each waiver;
  - b. Include a description of all current waivers and waivers issued during the preceding year in the annual report to the CUI EA, along with the rationale for each waiver and the alternate steps HUD takes to ensure sufficient protection of CUI; and
  - c. Notify authorized recipients and the public of these waivers.

#### **4.6 CUI and disclosure statutes**

##### **A. General policy**

1. The fact that HUD designates certain information as CUI does not affect HUD's determinations pursuant to any law that requires HUD or the employee to disclose that information or permits them to do so as a matter of discretion.
2. HUD or employee must make such determinations according to the criteria set out in the governing law, not on the basis of the information's status as CUI.

##### **B. CUI and the Freedom of Information Act (FOIA)**

1. HUD must not cite the FOIA as a CUI safeguarding or disseminating control authority for CUI.
2. When HUD is determining whether to disclose information in response to a FOIA request, HUD must base its decision on the content of the information and applicability of any FOIA statutory exemptions, regardless of whether HUD designates or marks the information as CUI.
3. There may be circumstances in which HUD may disclose CUI to an individual or entity, including through a FOIA response, but such disclosure does not always constitute public release as defined in this policy.
4. Although disclosed via a FOIA response, HUD may still need to control the CUI while HUD continues to hold the information, despite the disclosure, unless HUD otherwise decontrols the information.

##### **C. CUI and the Whistleblower Protection Act**

1. This policy does not change or affect existing legal protections for whistleblowers. The fact that HUD designates or marks certain information as CUI does not determine whether an individual may lawfully disclose that information under a law or other authority, and does not preempt or otherwise affect whistleblower legal protections provided by law, regulation, or executive order or directive.

#### **4.7 CUI and the Privacy Act**

- A. The fact that records are subject to the Privacy Act of 1974 does not mean that HUD must mark them as CUI. HUD must:
  1. Determine which records may be subject to the Privacy Act and;
  2. Consult the CUI Registry to determine which privacy information must be marked as CUI.
- B. Information contained in Privacy Act systems of records may also be subject to controls under other CUI categories or subcategories and HUD may need to mark that information as CUI for that reason.
- B. In addition, when determining:
  1. Whether HUD must protect certain information under the Privacy Act, or
  2. Whether the Privacy Act allows HUD to release the information to an individual, HUD must base its decision on the content of the information and the Privacy Act's criteria, regardless of whether HUD designates or marks the information as CUI.

#### **4.8 CUI and the Administrative Procedure Act**

- A. Nothing in the regulations nor this policy alters the requirement for HUD to comply with the Administrative Procedure Act (APA), nor alters the powers of Federal administrative law judges (ALJs) appointed thereunder, including the power to determine confidentiality of information in proceedings over which they preside.
- B. The regulations and this policy do not impose requirements concerning the manner in which ALJs designate, disseminate, control access to, decontrol, or mark such information, or make such determinations.

#### **4.9 Challenges to designation of information as CUI**

- A. Authorized holders of CUI who, in good faith, believe that its designation as CUI is improper or incorrect, or who believe they have received unmarked CUI, should notify the disseminating agency of this belief. When HUD is not the designating agency, the authorized holder must notify the designating agency.
- B. If the information at issue is involved in Government litigation, or the challenge to its designation or marking as CUI arises as part of the litigation, the issue of whether the

challenger may access the information will be addressed via the litigation process instead of by HUD's CUI program.

- C. Challengers should nonetheless notify HUD of the issue through the HUD process described below and include its litigation connection, if any.
- D. CUI SAOs must create a process within HUD to accept and manage challenges to CUI status. At a minimum, this process must include a timely response to the challenger that:
  - 1. Acknowledges receipt of the challenge;
  - 2. States an expected timetable for response to the challenger;
  - 3. Provides an opportunity for the challenger to define a rationale for belief that the CUI in question is inappropriately designated;
  - 4. Gives contact information for the official making HUD's decision in this matter; and
  - 5. Ensures that challengers who are authorized holders have the option of bringing such challenges anonymously, and that challengers are not subject to retribution for bringing such challenges.
  - 6. Until the challenge is resolved, authorized holders should continue to safeguard and disseminate the challenged CUI at the control level indicated in the markings..
- E. If a challenging party disagrees with the response to a challenge, that party may use the Dispute Resolution procedures described in 32 CFR 2002.52.

#### **4.10 Dispute resolution for HUD**

- A. When laws, regulations, or Governmentwide policies governing the CUI involved in a dispute set out specific procedures, processes, and requirements for resolving disputes, HUD must follow those processes for that CUI.
  - 1. This includes submitting the dispute to someone other than the CUI EA for resolution if the authority so requires.
  - 2. If the CUI at issue is involved in litigation, HUD should refer the issue to the appropriate attorneys for resolution through the litigation process.
  - 3. When laws, regulations, and Governmentwide policies governing the CUI do not set out specific procedures, processes, or requirements for CUI dispute resolution (or the information is not involved in litigation), 32 CFR Part 2002 governs.
  - 4. All parties to a dispute arising from implementing or interpreting the Order, this policy, or the CUI Registry should make every effort to resolve the dispute quickly.
  - 5. Parties should address disputes within a reasonable, mutually acceptable time period, taking into consideration the parties' mission, sharing, and protection requirements.

6. If parties to a dispute cannot reach a mutually acceptable resolution, any party may refer the matter to the CUI EA.
  7. The CUI EA acts as the impartial arbiter of the dispute and has the authority to render a decision on the dispute after consulting with all affected parties.
  8. If a party to the dispute is also a member of the Intelligence Community, the CUI EA must consult with the Office of the Director of National Intelligence when the CUI EA receives the dispute for resolution.
- B. Until the dispute is resolved, authorized holders should continue to safeguard and disseminate any disputed CUI at the control level indicated in the markings, or as directed by the CUI EA if the information is unmarked.
- C. Parties may appeal the CUI EA's decision through the Director of OMB to the President for resolution, pursuant to section 4(e) of the Order. If one of the parties to the dispute is the CUI EA and the parties cannot resolve the dispute under paragraph (c) of 32 CFR 2002.52, Dispute resolution for agencies, the parties may likewise refer the matter to OMB for resolution.

#### **4.11 Misuse of CUI**

- A. The CUI SAO must establish HUD processes and criteria for reporting and investigating misuse of CUI.
- B. The CUI EA reports findings on any incident involving misuse of CUI to HUD's CUI SAO or CUI Program Manager for action, as appropriate.

#### **4.12 Sanctions for misuse of CUI**

- A. The Secretary is authorized to take administrative action against HUD personnel who misuse CUI.
- B. Where laws, regulations, or Governmentwide policies governing certain categories or subcategories of CUI specifically establish sanctions, HUD must adhere to such sanctions.

## APPENDIX 1: GLOSSARY

For use under HUD’s CUI Policy, the following terms have the definitions provided in this appendix.

<b>KEY TERMS</b>	<b>DEFINITION</b>
<b>Agency</b>	Any “executive agency,” as defined in 5 U.S.C. 105; the United States Postal Service; and any other independent entity within the executive branch that designates or handles CUI.
<b>HUD CUI policies</b>	Policies HUD uses to implement the CUI program within HUD, which must be in accordance with the Order, 32 CFR Part 2002, and the CUI Registry and approved by the CUI EA.
<b>Agreements and arrangements</b>	Any vehicle that sets out specific CUI handling requirements for contractors and other information-sharing partners when the arrangement with the other party involves CUI. Agreements and arrangements include, but are not limited to, contracts, grants, licenses, certificates, memoranda of agreement/arrangement or understanding, and information-sharing agreements or arrangements. When disseminating or sharing CUI with non-executive branch entities, HUD should enter into written agreements or arrangements that include CUI provisions whenever feasible. When sharing information with foreign entities, HUD should enter agreements or arrangements when feasible.
<b>Authorized holder</b>	An individual, agency, organization, or group of users that is permitted to designate or handle CUI, in accordance with 32 CFR Part 2002.
<b>Classified information</b>	Information that Executive Order 13526, “Classified National Security Information,” December 29, 2009 (3 CFR, 2010 Comp., p. 298), or any predecessor or successor order, or the Atomic Energy Act of 1954, as amended, that requires agencies, including HUD, to mark with classified markings and protect against unauthorized disclosure.
<b>Controlled environment</b>	Any area or space an authorized holder deems to have adequate physical or procedural controls (e.g., barriers or managed access controls) to protect CUI from unauthorized access or disclosure.
<b>Control level</b>	A general term that indicates the safeguarding and disseminating requirements associated with CUI Basic and CUI Specified.
<b>Controlled Unclassified Information (CUI)</b>	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 Governmentwide policy requires or permits an agency to handle using safeguarding or dissemination controls. However, CUI does not include classified information or information a non-executive branch entity possesses and maintains in its own systems that did not come from, or was not created or possessed by or for, an executive branch agency or an entity acting for an agency. A law, regulation, or Governmentwide policy may require or permit safeguarding or dissemination controls in three ways: requiring or permitting HUD to control or protect the information but providing

	no specific controls, which makes the information CUI Basic; requiring or permitting HUD to control or protect the information and providing specific controls for doing so, which makes the information CUI Specified; or requiring or permitting HUD to control the information and specifying only some of those controls, which makes the information CUI Specified, but with CUI Basic controls where the authority does not specify.
<b>Controls</b>	Safeguarding or dissemination controls that a law, regulation, or Governmentwide policy requires or permits HUD to use when handling CUI. The authority may specify the controls it requires or permits HUD to apply, or the authority may generally require or permit agencies to control the information (in which case, the agency applies controls from the Order, 32 CFR Part 2002, and the CUI Registry).
<b>CUI Basic</b>	The subset of CUI for which the authorizing law, regulation, or Governmentwide policy does not set out specific handling or dissemination controls. HUD handles CUI Basic according to the uniform set of controls set forth in 32 CFR Part 2002 and the CUI Registry. CUI Basic differs from CUI Specified (see definition for CUI Specified in this section), and CUI Basic controls apply whenever CUI Specified ones do not cover the involved CUI.
<b>CUI categories and subcategories</b>	Types of information for which laws, regulations, or Governmentwide policies require or permit HUD to exercise safeguarding or dissemination controls, and which the CUI EA has approved and listed in the CUI Registry. The controls for any CUI Basic categories and any CUI Basic subcategories are the same, but the controls for CUI Specified categories and subcategories can differ from CUI Basic ones and from each other. A CUI category may be Specified, while some or all of its subcategories may not be, and vice versa. If dealing with CUI that falls into a CUI Specified category or subcategory, review the controls for that category or subcategory on the CUI Registry. Also consult HUD’s CUI policy for specific direction from the Senior Agency Official.
<b>CUI category or subcategory markings</b>	Markings approved by the CUI EA for the categories and subcategories listed in the CUI Registry.
<b>CUI Executive Agent (EA)</b>	The National Archives and Records Administration (NARA), which implements the executive branch-wide CUI program and oversees Federal agency actions to comply with the Order. NARA has delegated this authority to the Director of the Information Security Oversight Office (ISOO).
<b>CUI Program</b>	The executive branch-wide program to standardize CUI handling by all Federal agencies. The Program includes the rules, organization, and procedures for CUI, established by the Order, 32 CFR Part 2002, and the CUI Registry.

<b>CUI Program manager</b>	An agency official, designated by the agency head or CUI SAO, to serve as the official representative to the CUI EA on HUD’s day-to-day CUI program operations, both within the agency and in interagency contexts.
<b>CUI Registry</b>	The online repository for all information, guidance, policy, and requirements on handling CUI, including everything issued by the CUI EA other than 32 CFR Part 2002. Among other information, the CUI Registry identifies all approved CUI categories and subcategories, provides general descriptions for each, identifies the basis for controls, establishes markings, and includes guidance on handling procedures.
<b>CUI senior agency official (SAO)</b>	A senior official designated in writing by an agency head and responsible to that agency head for implementation of the CUI program within that agency. The CUI SAO is the primary point of contact for official correspondence, accountability reporting, and other matters of record between the agency and the CUI EA.
<b>CUI Specified</b>	The subset of CUI in which the authorizing law, regulation, or Governmentwide policy contains specific handling controls that it requires or permits agencies, such as HUD, to use that differ from those for CUI Basic. The CUI Registry indicates which laws, regulations, and Governmentwide policies include such specific requirements. CUI Specified controls may be more stringent than, or may simply differ from, those required by CUI Basic; the distinction is that the underlying authority spells out specific controls for CUI Specified information and does not for CUI Basic information. CUI Basic controls apply to those aspects of CUI Specified where the authorizing laws, regulations, and Governmentwide policies do not provide specific guidance.
<b>Decontrolling</b>	Occurs when an authorized holder, consistent with 32 CFR Part 2002 and the CUI Registry, removes safeguarding or dissemination controls from CUI that no longer require such controls. Decontrol may occur automatically or through agency action.
<b>Designating</b>	CUI occurs when an authorized holder, consistent 32 CFR Part 2002 and the CUI Registry, determines that a specific item of information falls into a CUI category or subcategory. The authorized holder who designates the CUI must make recipients aware of the information’s CUI status in accordance with 32 CFR Part 2002.
<b>Designating agency</b>	The executive branch agency that designates or approves the designation of a specific item of information as CUI.
<b>Disseminating</b>	Occurs when authorized holders provide access, transmit, or transfer CUI to other authorized holders through any means, whether internal or external to an agency.
<b>Document</b>	Any tangible thing which constitutes or contains information, and is the original and any copies (whether different from the originals

	<p>because of notes made on such copies or otherwise) of all writings of every kind and description over which an agency has authority, whether inscribed by hand or by mechanical, facsimile, electronic, magnetic, microfilm, photographic, or other means, as well as phonic or visual reproductions or oral statements, conversations, or events, and including, but not limited to: correspondence, email, notes, reports, papers, files, manuals, books, pamphlets, periodicals, letters, memoranda, notations, messages, telegrams, cables, facsimiles, records, studies, working papers, accounting papers, contracts, licenses, certificates, grants, agreements, computer disks, computer tapes, telephone logs, computer mail, computer printouts, worksheets, sent or received communications of any kind, teletype messages, agreements, diary entries, calendars and journals, printouts, drafts, tables, compilations, tabulations, recommendations, accounts, work papers, summaries, address books, other records and recordings or transcriptions of conferences, meetings, visits, interviews, discussions, or telephone conversations, charts, graphs, indexes, tapes, minutes, contracts, leases, invoices, records of purchase or sale correspondence, electronic or other transcription of taping of personal conversations or conferences, and any written, printed, typed, punched, taped, filmed, or graphic matter however produced or reproduced. Documents also include the file, folder, exhibits, and containers, the labels on them, and any metadata, associated with each original or copy. Documents also include voice records, film, tapes, video tapes, email, personal computer files, electronic matter, and other data compilations from which information can be obtained, including materials used in data processing.</p>
<b>Executive Agent (EA)</b>	See CUI Executive Agent
<b>Federal information system</b>	An information system used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency. 44 U.S.C. 3554(a)(1)(A)(ii).
<b>Foreign entity</b>	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.
<b>Formerly Restricted Data (FRD)</b>	A type of information classified under the Atomic Energy Act, and defined in 10 CFR 1045, Nuclear Classification and Declassification.
<b>Handling</b>	Any use of CUI, including, but not limited to, marking, safeguarding, transporting, disseminating, re-using, and disposing of the information.
<b>Lawful Government purpose</b>	Any activity, mission, function, operation, or endeavor that the U.S. Government authorizes or recognizes as within the scope of its legal authorities or the legal authorities of non-executive branch entities (such as State and local law enforcement).

<b>Legacy material</b>	Unclassified information that an agency marked as restricted from access or dissemination in some way, or otherwise controlled, prior to the CUI program.
<b>Limited dissemination control</b>	Any CUI EA-approved control that agencies may use to limit or specify CUI dissemination.
<b>Misuse of CUI</b>	Occurs when someone uses CUI in a manner not in accordance with the policy contained in the Order, 32 CFR Part 2002, the CUI Registry, agency CUI policy, or the applicable laws, regulations, and Governmentwide policies that govern the affected information. This may include intentional violations or unintentional errors in safeguarding or disseminating CUI. This may also include designating or marking information as CUI when it does not qualify as CUI.
<b>National Institute of Standards and Technology (NIST)</b>	A research institute within the U.S. Department of Commerce that o promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology.
<b>National Security System</b>	A special type of information system (including telecommunications systems) whose function, operation, or use is defined in National Security Directive 42, National Policy for the Security of National Security Telecommunications and Information Systems, <sup>6</sup> and 44 U.S.C. 3542(b)(2).
<b>Non-executive branch entity</b>	A person or organization established, operated, and controlled by individual(s) acting outside the scope of any official capacity as officers, employees, or agents of the executive branch of the Federal Government. Such entities may include elements of the legislative or judicial branches of the Federal Government; State, interstate, tribal, or local government elements; and private organizations. A non-executive branch entity does not include foreign entities as defined in 32 CFR Part 2002, nor does it include individuals or organizations when they receive CUI information pursuant to Federal disclosure laws, including the Freedom of Information Act (FOIA) and the Privacy Act of 1974.
<b>On behalf of an agency</b>	Occurs when a non-executive branch entity uses or operates an information system or maintains or collects information for the purpose of processing, storing, or transmitting Federal information, and those activities are not incidental to providing a service or product to the Government.
<b>Order</b>	Executive Order 13556, Controlled Unclassified Information, November 4, 2010 (3 CFR, 2011 Comp., p. 267), or any successor order.
<b>Portion</b>	Ordinarily a section within a document, and may include subjects, titles, graphics, tables, charts, bullet statements, sub-paragraphs, bullets points, or other sections.

<sup>6</sup> <https://www.hsdl.org/?abstract&did=458706>

<b>Protection</b>	Includes all controls an agency applies or must apply when handling information that qualifies as CUI.
<b>Public release</b>	Occurs when the agency that originally designated particular information as CUI makes that information available to the public through HUD’s official public release processes. Disseminating CUI to non-executive branch entities as authorized does not constitute public release. Releasing information to an individual pursuant to the Privacy Act of 1974 or disclosing it in response to a FOIA request also does not automatically constitute public release, although it may if that agency ties such actions to its official public release processes. Even though an agency may disclose some CUI to a member of the public, the Government must still control that CUI unless the agency publicly releases it through its official public release processes.
<b>Records</b>	Agency records and Presidential papers or Presidential (or Vice-Presidential) records, as those terms are defined in 44 U.S.C. 3301 and 44 U.S.C. 2201 and 2207. Records also include such items created or maintained by a Government contractor, licensee, certificate holder, or grantee that are subject to the sponsoring agency’s control under the terms of the entity’s agreement with the agency.
<b>Required or permitted (by a law, regulation, or Governmentwide policy)</b>	The basis by which information may qualify as CUI. If a law, regulation, or Governmentwide policy requires that agencies, such as HUD, exercise safeguarding or dissemination controls over certain information, or specifically permits agencies, such as HUD, the discretion to do so, then that information qualifies as CUI. The term ‘specifically permits’ in this context can include language such as “is exempt from” applying certain information release or disclosure requirements, “may” release or disclose the information, “may not be required to” release or disclose the information, “is responsible for protecting” the information, and similar specific but indirect, forms of granting the agency discretion regarding safeguarding or dissemination controls. This does not include general agency or agency head authority and discretion to make decisions, risk assessments, or other broad agency authorities, discretions, and powers, regardless of the source. The CUI Registry reflects all appropriate authorizing authorities.
<b>Restricted Data (RD)</b>	A type of information classified under the Atomic Energy Act, defined in 10 CFR Part 1045, Nuclear Classification and Declassification.
<b>Re-use</b>	Incorporating, restating, or paraphrasing information from its originally designated form into a newly created document.
<b>Self-inspection</b>	An agency’s internally managed review and evaluation of its activities to implement the CUI program.
<b>Unauthorized disclosure</b>	Occurs when an authorized holder of CUI intentionally or unintentionally discloses CUI without a lawful Government purpose,

	in violation of restrictions imposed by safeguarding or dissemination controls, or contrary to limited dissemination controls.
<b>Uncontrolled unclassified information</b>	Information that neither the Order nor the authorities governing classified information cover as protected. Although this information is not controlled or classified, agencies, such as HUD, must still handle it in accordance with Federal Information Security Modernization Act (FISMA) requirements.
<b>Working papers</b>	Documents or materials, regardless of form, that an agency or user expects to revise prior to creating a finished product.