

EXEMPTION 3 — Statutory Exemption

Examples:

- Cooperative Research and Development Agreement Information
- Export Controlled Information



EXEMPTION 4 — Commercial/Proprietary

Examples:

- Trade secrets
- Scientific and manufacturing processes
- Bids, contracts, or proposals
- Agency credit card or bank account numbers
- Security measures for commercial entities performing Government work



EXEMPTION 5 — Privileged Information

Examples:

- Recommendations
- Evaluations
- Appraisal results
- Drafts of new policies
- Attorney-Client exchanges



EXEMPTION 6 — Personal Privacy

Examples:

- Social security numbers
- Date of birth associated with an individual
- Medical history associated with an individual



EXEMPTION 7 — Law Enforcement

Examples:

- Witness statements
- Identity of firms or individuals being investigated for alleged irregularities involving contracting with DOE when no indictment has been obtained
- Information obtained in confidence in the course of a criminal investigation
- Law enforcement or security manuals
- Security measures to protect Federal buildings or personnel.



EXEMPTION 8—Financial Institutions

Examples:

- Bank examination reports
- Operation and condition reports



EXEMPTION 9 — Wells

Examples:

- Geothermal well BTU production
- Natural gas reserves
- Groundwater inventories



Refer to the following for further information:

DOE Order 471.3, Admin Chg 1, *Identifying and Protecting Official Use Only Information*, dated January 13, 2011

DOE Manual 471.3-1, Admin Chg 1, *Manual for Identifying and Protecting Official Use Only Information*, dated January 13, 2011

Contact the Office of Classification (HS-61) at outreach@hq.doe.gov if you have any questions concerning identifying or protecting OOU information or documents.



UNDERSTANDING

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U.S. DEPARTMENT OF ENERGY



**OFFICE OF CLASSIFICATION
OFFICE OF HEALTH, SAFETY
AND SECURITY**

What is Official Use Only Information?

Official Use Only (OUO) information is certain unclassified information that may be exempt from public release under the Freedom of Information Act (FOIA) and has the potential to damage governmental, commercial, or private interests if disseminated to persons who do not need to know the information to perform their jobs or other DOE-authorized activities.

Who Can Determine What Information Is OUO?

Any Federal or contractor employee can determine that an unclassified document contains OUO information if that document is originated within his/her office, is produced for his/her office, or is under the control of his/her office.

How Do I Determine if a Document Contains OUO Information?

First, you consider whether the information could damage governmental, commercial, or private interests if given to someone who doesn't need it to perform his or her job or other DOE-authorized activity. That decision may already have been made for you if your organization or the Office of Classification has issued guidance that states such information is OUO. If no guidance has been issued, then you need to determine whether there is a potential for damage and if the information falls under at least one of the FOIA exemptions 3-9. If you believe that the information meets both criteria, then you determine that the document contains OUO information.

If a Document Contains OUO Information, How Is It Marked?

The employee making the OUO determination ensures that the words "Official Use Only" (or "OUO" if space is limited) are placed on the bottom of the front of the document and on the bottom of each interior page or, if more convenient, on just

those interior pages containing the OUO information. In addition, the following marking must appear on the front of the document:

OFFICIAL USE ONLY	
May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552), exemption number and category: <u>7, Law</u>	
<u>Enforcement</u>	
Department of Energy review required before public release	
Name/Org. <u>Tanya Miceli, #S-60</u>	Date: <u>5/6/03</u>
Guidance (if applicable) <u>N/A</u>	

The employee fills in the applicable FOIA exemption number and related category name (see the section on FOIA Exemptions in this brochure), his or her name and organization, the date of the determination, and the guidance used if the determination was based on guidance.

Complete information concerning the marking of OUO documents (for example, supplemental markings, marking a document transmitting OUO information or an e-mail message, and removing OUO markings) can be found in DOE M 471.3-1, Admin Chg 1, *Manual for Identifying and Protecting Official Use Only Information*, dated 1/13/11.

Who Can Have Access to a Document Marked as Containing OUO Information?

Anyone who needs the OUO information to perform his/her job or other DOE-authorized activity may have access to the document. Such access is granted by the person in possession of the document.

How Do I Protect a Document Marked as Containing OUO Information?

In Use — You should take reasonable precautions to prevent access to the information by those who don't need it for official activities.

Storage — If after hours building security is provided, a document containing OUO information may be stored in unlocked receptacles, such as file cabinets, desks, or bookcases. If such security is not provided, then it must be stored in locked receptacles.

Reproduction — OUO documents may be reproduced to the minimum extent necessary, ensuring that all copies are marked as required.

Destruction — OUO documents may be destroyed by using a strip cut shredder that produces strips no more than 1/4 inch wide or any other locally approved method.

Transmission by mail — Place the document in a sealed, opaque envelope and write "To Be Opened by Addressee Only" on the outside.

Transmission by fax or e-mail — Use encryption methods (e.g., Entrust) whenever possible. If encryption is not available and mailing is not a feasible alternative, then regular fax or e-mail may be used.

Processing OUO information on a computer — The system must prevent access by unauthorized persons (e.g., use of password or file access controls).

More details on protection and processing requirements are covered in detail in DOE M 471.3-1

Freedom of Information Act Exemptions

The FOIA generally provides that any information in a document in the Federal Government's possession must be publicly released upon request unless such information falls under one of the nine exemptions. These nine exemptions protect all sensitive Government information, classified and unclassified, from public release and serve as the basis for making OUO determinations. Exemption 1 pertains to information classified by Executive order, so this information is never OUO. As of March 2011, Exemption 2 now only applies to information that relates solely to internal personnel rules and practices of an Agency; Exemption 2 should no longer be used for an OUO determination. Therefore, only Exemptions 3-9 may be cited in OUO determinations.

Information under consideration to be OUO must fall under one of the following seven exemptions: