



# UNDERSTANDING OFFICIAL USE ONLY

## *What is Official Use Only?*

Official Use Only (OUO) information is unclassified information that has the potential to damage governmental, commercial, or private interests and may be exempt from public release under the Freedom of Information Act (FOIA).

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

In order to make an OUO determination, you must be familiar with the OUO directives, including the marking and protection requirements. The Office of Classification or your program office may have issued OUO guidance for specific information. If information is covered by guidance, it must be marked OUO. If the information is not covered by guidance, you must first consider whether the information could damage governmental, commercial, or private interests if given to someone who does not need it to perform their job or other DOE-authorized activity. If you determine there is a potential for damage, you must next decide if the information falls under at least one of the FOIA exemptions. If you believe that the information meets both criteria, then the document is OUO and you should mark and protect the document accordingly.

If information is not covered by guidance and does not meet the two criteria of damage and FOIA exemption, it is not OUO.

## *Marking and Protecting Official Use Only Information*

The employee making an OUO determination must ensure that the words “Official Use Only” (or “OUO” if space is limited) are placed on the bottom of the front of the document. This marking must also be placed on either the bottom of each interior page or on just those interior pages containing the OUO information. In addition, the marking below must appear on the front of the document. The employee must fill in the applicable FOIA exemption number and category name, their name and organization, and if the determination was based on guidance, identify the guidance used.

### SAMPLE OUO STAMP

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>2, Circumvention</u>	
<u>of Statute</u>	
Department of Energy Review required before public release	
Name/Org: <u>Jane Doe, HS-90</u>	Date: <u>4/14/06</u>
Guidance (if applicable): <u>CG-SS-4</u>	

Anyone who needs the OUO information to perform their job or other DOE-authorized activity may have access to the document. The person in possession of the document determines if someone has a need for access. You should take reasonable precautions to preclude access to the information by those who do not need it for official activities.

For marking requirements for transmittals, e-mail and special formats, information on the removal of OUO markings, and other OUO protection requirements, see [DOE M 471.3-1, Manual for Identifying and Protecting Official Use Only Information](#).

**NOTE:** Information must not be designated as Official Use Only to conceal inefficiency, misdeeds, or mismanagement.

## *OUO and the Freedom of Information Act Exemptions*

The FOIA generally provides that any information in a document in the Federal Government's possession must be released to anyone who requests it unless such information falls under at least one of nine exemptions identified in the FOIA. These nine exemptions protect all sensitive Government information, classified and unclassified, from public release and serve as the basis for making OUO decisions. Exemption 1 pertains to information classified by Executive order; so this information is never OUO. Therefore, only exemptions 2-9 may be cited in OUO determinations. For more details, see [DOE G 471.3-1, Guide to Identifying Official Use Only Information](#).

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

### **EXEMPTION 2 — Circumvention of Statute**

Examples:

- Audit Criteria
- Appraisal Methods
- Classification Guides
- Tests and Answers



### **EXEMPTION 3 — Statutory Exemption**

Examples:

- Cooperative Research and Development Agreement Information
- Export Controlled Information



### **EXEMPTION 4 — Commercial/Proprietary**

Examples:

- Trade Secrets
- Financial Data
- Business Plans
- Cost Data



### **EXEMPTION 5 — Privileged Information**

Examples:

- Recommendations
- Evaluations
- Appraisal Results
- Drafts of New Policies
- Attorney-Client Exchanges



### **EXEMPTION 6 — Personal Privacy**

Examples:

- Medical Condition
- Marital Status
- Social Security Number
- Unlisted Home Phone Number



### **EXEMPTION 7 — Law Enforcement**

Examples:

- On-going Investigative Reports
- Reports which would impair impartial adjudication
- Confidential Sources



### **EXEMPTION 8 — Financial Institutions**

Example:

- Reports on the financial condition of a Bank



### **EXEMPTION 9 — Wells**

Examples:

- Resource Maps
- New Drilling Techniques
- Well Head Analysis



Refer to the following for more information:

- 1) [DOE O 471.3, Identifying and Protecting Official Use Only Information](#), dated April 9, 2003.
- 2) [DOE M 471.3-1, Manual for Identifying and Protecting Official Use Only Information](#), dated April 9, 2003.
- 3) [DOE G 471.3-1, Guide to Identifying Official Use Only Information](#), dated April 9, 2003.

Contact the [Office of Classification](#) (HS-90) at [outreach@hq.doe.gov](mailto:outreach@hq.doe.gov) if you have any questions.

## **Official Use Only ≠ Exempt from the Freedom of Information Act**

Although OUO determinations are intended to be consistent with FOIA exemptions, documents marked OUO are not automatically exempt from release. It is important to understand that the decision to exempt information from public release under the FOIA is not made when a document is identified and marked as OUO, but when an appropriate DOE official conducts an indepth FOIA review and makes a formal FOIA determination. Documents marked OUO must be reviewed by a FOIA official when requested under the FOIA.